

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

**Julie Muscroft**

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Tuesday 19 January 2021

## Notice of Meeting

Dear Member

### Strategic Planning Committee

The **Strategic Planning Committee** will meet remotely at **1.00 pm** on **Wednesday 27 January 2021**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft", on a light-colored background.

**Julie Muscroft**

**Service Director – Legal, Governance and Commissioning**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Strategic Planning Committee members are:-**

### **Member**

Councillor Steve Hall (Chair)  
Councillor Nigel Patrick  
Councillor Donna Bellamy  
Councillor Carole Pattison  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal  
Councillor Rob Walker

When a Strategic Planning Committee member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

B Armer  
V Lees-Hamilton  
R Smith  
J Taylor  
M Thompson

#### **Green**

K Allison  
S Lee-Richards

#### **Independent**

C Greaves  
T Lyons

#### **Labour**

M Akhtar  
M Kaushik  
W Simpson  
H Uppal

#### **Liberal Democrat**

J Lawson  
A Marchington  
A Munro

# Agenda

## Reports or Explanatory Notes Attached

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Pages

**1: Membership of the Committee**

To receive any apologies for absence, or details of substitutions to Committee membership.

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**2: Minutes of the Previous Meeting**

1 - 8

To approve the Minutes of the meeting of the Committee held on 16 December 2020.

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**3: Declaration of Interests and Lobbying**

9 - 10

Committee Members will advise (i) if there are any items on the Agenda upon which they have been lobbied and/or (ii) if there are any items on the Agenda in which they have a Disclosable Pecuniary Interest, which would prevent them from participating in any discussion or vote on an item, or any other interests.

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**4: Admission of the Public**

Most agenda items will be considered in public session, however, it shall be advised whether the Committee will consider any matters in private, by virtue of the reports containing information which falls within a category of exempt information as contained at Schedule 12A of the Local Government Act 1972.

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**5: Public Question Time**

Due to current Covid-19 restrictions, Members of the Public may submit written questions to the Committee. Questions should be emailed to [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) no later than 10.00am on Tuesday 26 January 2020.

In accordance with:

- Council Procedure Rule 11 (3), questions regarding the merits of applications (or other matters) currently before the Council for determination of which the Council is under a duty to act quasi judicially shall not be answered.
-

- Council Procedure Rule 11 (5), the period for the asking and answering of public questions shall not exceed 15 minutes.
  - Council Procedure Rule 51(10) any person may submit up to a maximum of 4 written questions.
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## **6: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

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## **7: Planning Applications**

11 - 12

The Planning Committee will consider the attached schedule of Planning Applications.

Please note that any members of the public who wish to speak at the meeting must register to speak by 5.00pm (for phone requests) or 11:59pm (for email requests) by no later than Monday 25 January 2020.

To pre-register, please email [governance.planning@kirklees.gov.uk](mailto:governance.planning@kirklees.gov.uk) or phone Richard Dunne on 01484 221000 (Extension 74995).

As this is a virtual meeting please include in your email the telephone number that you intend to use when addressing the Committee. You will receive details on how to speak at the meeting in your acknowledgement email.

Please note that in accordance with the council's public speaking protocols at planning committee meetings verbal representations will be limited to three minutes.

An update, providing further information on applications on matters raised after the publication of the Agenda, will be added to the web Agenda prior to the meeting.

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- 8: Planning Application - Application No: 2019/91467** 13 - 76
- Erection of 67 dwellings with associated access and parking land south of, Granny Lane, Mirfield.
- Contact Officer: Kate Mansell, Planning Services
- Ward(s) affected: Mirfield.
- 
- 9: Planning Application - Application No: 2019/92787** 77 - 124
- Erection of 260 dwellings with open space, landscaping and associated infrastructure Land at Owl Lane, Chidswell, Dewsbury
- Contact Officer: Victor Grayson, Planning Services
- Ward(s) affected: Dewsbury East
- 
- 10: Planning Application - Application No: 2019/93658** 125 - 172
- Erection of 124 dwellings, landscaping and associated infrastructure Land at, Whitechapel Road, Cleckheaton.
- Contact Officer: Christopher Carroll, Planning Services
- Ward(s) affected: Cleckheaton
- 
- 11: Planning Application - Application No: 2020/92800** 173 - 194
- Demolition of existing warehouse and workshop unit and the erection of 3 units with reconfigured access, boundary treatment, landscaping and associated works Land at, Pennine View/Pheasant Drive.
- Contact Officer: Christopher Carroll, Planning Services
- Ward(s) affected: Birstall and Birkenshaw
- 
- 12: Planning Application - Application No: 2020/90710** 195 - 228
- Partial demolition, partial re-build, erection of extensions and alterations to mill to form 63 apartments and erection of 64 dwellings (Within a Conservation Area) Westwood Mill, Lowestwood Lane, Linthwaite, Huddersfield.
- Contact Officer: Adam Walker, Planning Services
-

Ward(s) affected: Colne Valley

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**13: Planning Application - Application No: 2020/91813** 229 - 234

Discharge of conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development rear of, 11, Holme Avenue, Dalton, Huddersfield.

Contact Officer: Adam Walker, Planning Services

Ward(s) affected: Almondbury

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**14: Planning Application - Application No: 2020/90450** 235 - 252

Erection of restaurant with drive-thru, car parking, landscaping, play frame, customer order displays and associated works. land at, Owl Lane, John Ormsby V C Way, Shaw Cross, Dewsbury.

Contact Officer: Sarah Longbottom, Planning Services

Ward(s) affected: Dewsbury East

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**15: Planning Application - Application No: 2020/92384** 253 - 268

Erection of extension and alterations to Unit 4 for food and non-food retail with associated external works to reconfigure car park and servicing arrangements Unit 4, The Rishworth Centre, Railway Street, Dewsbury.

Contact Officer: Rebecca Drake, Planning Services

Ward(s) affected: Dewsbury East

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**16: Report to Note: Supplementary Update - Mirfield 25, Leeds Road, Mirfield - Planning Compliance & Conditions Monitoring** 269 - 272

To receive a supplementary report on planning related complaints in respect of Mirfield 25, Leeds Road, Mirfield, which is one of the largest strategic sites currently under construction in Kirklees.

Contact Officer: Mathias Franklin – Head of Planning and Development.

Ward(s) affected: Mirfield

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## **Planning Update**

The update report on applications under consideration will be added to the web agenda prior to the meeting.

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Contact Officer: Sheila Dykes

## KIRKLEES COUNCIL

### STRATEGIC PLANNING COMMITTEE

**Wednesday 16th December 2020**

Present: Councillor Steve Hall (Chair)  
Councillor Donna Bellamy  
Councillor Nigel Patrick  
Councillor Carole Pattison  
Councillor Andrew Pinnock  
Councillor Mohan Sokhal  
Councillor Rob Walker

Observers: Councillor Martyn Bolt  
Councillor Paola Antonia Davies  
Councillor John Lawson  
Councillor Bernard McGuin  
Councillor Alison Munro

#### **1 Membership of the Committee**

It was noted that Councillor Rob Walker had been appointed to the Committee and Councillor Cathy Scott had ceased to be a Member.

#### **2 Minutes of the Previous Meeting**

##### **RESOLVED –**

That the Minutes of the meeting of the Committee held on 17 November 2020 be approved as a correct record.

#### **3 Interests and Lobbying**

All Members of the Committee advised that they had been lobbied in relation to the item concerning Planning Compliance and Conditions Monitoring at Mirfield 25, Leeds Road, Mirfield.

Councillors Bellamy, Hall, Patrick, Pattison, Andrew Pinnock and Walker advised that they had been lobbied in relation to Application 2020/92657.

Councillor Andrew Pinnock advised that he had discussed the site relevant to Application 2020/91746 with constituents, over a lengthy period, but had not expressed a fixed view and retained an open mind.

#### **4 Admission of the Public**

All items on the agenda were taken in public session.

**5 Public Question Time**

A public question was asked in respect of the process for making decisions about which planning applications were submitted to Committee for determination.

The Development Management Group Leader provided a response.

**6 Deputations/Petitions**

No deputations or petitions were received.

**7 Mirfield 25, Leeds Road, Mirfield – Planning Compliance & Conditions Monitoring**

The Committee received a report outlining the planning related complaints, and action taken as a result, in respect of Mirfield 25, Leeds Road, Mirfield, further to a request made by the Committee at the meeting held on 3rd June 2020.

The site is one of the largest strategic sites currently under construction in Kirklees and the report also provided an update on the Major Site Monitoring undertaken in respect of the Conditions and Section 106 obligations.

Under the provisions of Council Procedure Rule 36(3) the Committee received representations from Councillor Martyn Bolt.

**RESOLVED –**

That the report be noted and a further, more detailed, update be submitted to the next meeting of the Committee.

**8 Planning Application- Application No -2020/92657**

The Committee considered Planning Application 2020/92657 - Erection of 10 classroom teaching block and formation of car parking area with associated engineering and landscape works (within a Conservation Area) at King James School, St Helen's Gate, Almondbury, Huddersfield.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Robin Tones and Joely Carey (objectors) and Ian Rimmer, Principal and Matthew Rhodes, Agent (in support).

Under the provisions of Council Procedure Rule 36(3) the Committee received representations from Councillors Paola Davies, Bernard McGuin and Alison Munro.

**RESOLVED –**

That authority be delegated to the Head of Planning and Development to notify the Secretary of State of the Local Planning Authority's intention to approve the application and, subject to the Secretary of State's response, to approve the application and issue the decision notice further to completion of the list of conditions, including those contained within the Committee report and the update, as set out below:

1. Time limit to commence (three years).
2. Development to be done in accordance with plans.
3. Modular buildings to be removed within 6 months of new building being used.

## Strategic Planning Committee - 16 December 2020

4. Details of facing stone to be provided prior to use.
5. Electric vehicle charging points (x2).
6. Contaminated land (Remediation and implementation).
7. Contaminated land (Validation).
8. Development done in accordance with Ecological Impact Assessment.
9. Submission of Ecological Design Strategy.
10. Provision of crossing point on Fenay Lane to St Helen's Gate.
11. Provision and implementation of 20mph reduction on St Helen's Gate (Fenay Lane to Arkenley Lane).
12. Submission of detailed travel plan, to be in accordance with details provided.
13. Post completion review of highway safety.
14. Submission of updated drainage strategy / Implementation of submitted drainage scheme.
15. Management maintenance of drainage strategy.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

For: Councillors S Hall, Pattison, A Pinnock, Sokhal and Walker (5 votes) Against (0 votes)

Abstained: Councillors Bellamy and Patrick

### 9 **Planning Application- Application No- 2020/91746**

The Committee considered Planning Application 2020/91746 in respect of the erection of an 'extra care' development providing 80 apartments with associated communal facilities and landscaped gardens at land off Kenmore Drive, Cleckheaton.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Clare Hemming, the applicant (in support).

Under the provisions of Council Procedure Rule 36(3) the Committee received representations from Councillor John Lawson.

#### **RESOLVED –**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development, in order to address the outstanding ecological matter and complete the list of conditions, including those contained within the Committee report and the update, as set out below:

1. Three year time limit for implementation.
2. Development in accordance with plans.
3. Samples of construction materials.
4. Car park to be laid out surfaced and drained.
5. Schedule of the means of access to the site for construction traffic.
6. Detailed scheme of hard and soft landscaping.
7. Landscape and Ecological Management Plan.
8. Details of boundary treatments.
9. Scheme detailing foul, surface water and land drainage.
10. Assessment of effects of 1 in 100 year storm events.

## Strategic Planning Committee - 16 December 2020

11. Details of the operation, maintenance and management of the surface water drainage infrastructure.
12. Scheme of temporary surface water drainage.
13. Site to be developed with separate system of drainage for foul and surface water. Maximum surface water discharge rate to be 3.5 l/s.
14. Construction hours.
15. Works completed in accordance with Noise Report Mitigation Measures.
16. Ventilation Scheme.
17. Control of noise from mechanical services, external plant and equipment.
18. Phase 2 report.
19. Remediation Strategy and implementation.
20. Submission of Validation Report.
21. Reporting of unexpected contamination.
22. Electric vehicle charge points.
23. Scheme of external lighting.
24. Submission, agreement, implementation and retention of a scheme regarding public footpaths and public access at the site;

subject to the provisions of Condition 5 and 14 being amalgamated into a condition requiring the submission of a Construction Management Plan, to include provision for community engagement.

and secure a Section 106 agreement to cover the following matters:

1. The establishment of a management company for the management and maintenance of the on-site area of Public Open Space and an Inspection Fee of £250.
2. Secure the 80 residential units as 100% affordable housing for rent.
3. Travel Plan monitoring fee of £15,000;

in the circumstances where the Section 106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under delegated powers.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

For: Councillors Bellamy, S Hall, Pattison, Patrick, A Pinnock, Sokhal and Walker (7 votes).

Against (0 votes)

### 10 **Planning Application - Application No: 2020/90988**

The Committee considered Planning Application 2020/90988 in respect of the variation of Condition 2 (plans and specifications) on a previous permission (2013/90497) for the erection of new industrial units at Magma Ceramics, Low Road, Earlsheaton, Dewsbury.

## Strategic Planning Committee - 16 December 2020

Under the provisions of Council Procedure Rule 37 the Committee received representations from Mark Stuckey, on behalf of the applicant (in support).

### **RESOLVED –**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development in order to complete the list of conditions, including those contained within the Committee report and the update, as set out below:

1. Three years to commence development - Condition does not need to be reapplied.
2. Approved plans and documents - the list of drawings and documents to be varied to include the drawings and documents illustrating and supporting the proposals detailed in the Committee report and the update.
3. Building materials - Condition reapplied as a compliance condition to reflect the approved building materials, together with an updated policy reasoning.
4. Boundary treatments - Condition reapplied as a compliance condition to reflect the approved boundary treatment, together with an updated policy reasoning.
5. Landscape details - Condition reapplied as a compliance condition to reflect the approved landscape plan, together with an updated policy reasoning.
6. Planting, seeding or tree management works - Condition reapplied as a compliance condition, together with an updated policy reasoning.
7. Drainage details - Condition reapplied and reworded to require details to be submitted where relevant, with a new trigger point, together with an updated policy reasoning.
8. Separate drainage - Condition reapplied as a compliance condition, together with an updated policy reasoning.
9. Flow restriction and surface water attenuation - Condition reapplied and reworded to require details to be submitted where relevant, with a new trigger point, together with an updated policy reasoning.
10. Flood Routing - Condition reapplied as a compliance condition, together with an updated policy reasoning.
11. Interceptor for the car parks - Condition reapplied and reworded to require these details to be submitted where relevant, with a new trigger point, together with an updated policy reasoning.
12. Arboricultural Assessment - Condition reapplied as a compliance condition, together with an updated policy reasoning.
13. Protective fencing - Condition reapplied as a compliance condition, together with an updated policy reasoning.
14. Phase 2 Intrusive Site Investigation Report - Condition reapplied as a compliance condition, together with an updated policy reasoning.
15. Remediation Strategy - Condition reapplied and reworded to require details to be submitted where relevant, with a new trigger point, together with an updated policy reasoning.
16. Unexpected remediation - Condition reapplied as a compliance condition, together with an updated policy reasoning.
17. Validation Report - Condition reapplied, together with an updated policy reasoning.
18. Noise - Condition to be reapplied as a compliance condition, together with an updated policy reasoning.

## Strategic Planning Committee - 16 December 2020

19. Phasing plan - Condition reapplied as a compliance condition, together with an updated policy reasoning.
20. Phasing of development - Condition reapplied as a compliance condition, together with an updated policy reasoning.
21. Cycle parking - Condition reapplied as a compliance condition, together with an updated policy reasoning.
22. Retaining wall – Condition does not need to be reapplied.
23. Time periods for dispatch and delivery. Condition reapplied as a compliance condition, together with an updated policy reasoning.
24. The installation of the mechanical plant shall not begin until details a sound insulation scheme, designed to protect the amenity of occupants of Carlton Terrace, Low Road and Middle Road from noise emitted from the application premises, has been submitted to and approved in writing by the Local Planning Authority. The use hereby approved shall not commence until the works comprised within the approved sound insulation scheme have been completed and those works shall be retained thereafter.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

For: Councillors Bellamy, S Hall, Pattison, Patrick, A Pinnock, Sokhal and Walker (7 votes).

Against (0 votes)

### 11 **Planning Application- Application No- 2020/92385**

The Committee considered Planning Application 2020/92385 relating to the erection of a warehouse at Hb Food Services, Vulcan Works, Vulcan Road, Eightlands, Dewsbury.

#### **RESOLVED –**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development, in order to complete the list of conditions, including those contained within the Committee report, as set out below:

1. Standard 3-year time limit for implementation.
2. Development to be in accordance with the approved plans.
3. Materials to be as shown on the plans.
4. No removal of trees and vegetation shall take place prior to check for active birds' nests
5. Invasive non-native species protocol to be submitted and approved in writing
6. No development to take place until an EDS is submitted and approved.
7. No additional tree works to commence without the prior approval of the Local Planning Authority
8. Landscaping boundary treatment plan
9. Noise assessment
10. External artificial lighting scheme to be submitted and approved in writing by the Local Planning Authority.
11. Phase II intrusive investigation report (contaminated land)
12. Remediation strategy (contaminated land)
13. Implementation of remediation strategy (contaminated land)
14. Submission of validation report (contaminated land)

## Strategic Planning Committee - 16 December 2020

15. Electric vehicle charging points
16. Turning head to be retained
17. Development to be used in association with the existing business at the site
18. Permeable surfacing
19. Hours of operation – 08:00-18:00 Monday to Friday and 08:00-13:00 Saturday.  
No works on Sunday and Bank Holidays
20. Scheme detailing foul, surface water and land drainage
21. Details of operation, maintenance, and management of surface water drainage infrastructure
22. Scheme detailing temporary surface water drainage for construction phase

and including a footnote in respect of Conditions 7 and 8 requiring the retention of as many of the existing trees along the frontage of the site as possible.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

For: Councillors Bellamy, S Hall, Pattison, Patrick, A Pinnock, Sokhal and Walker (7 votes).

Against (0 votes)

### 12 **Planning Application- Application No- 2020/92276**

The Committee considered Planning Application 2020/92276 relating to the flexible use of an existing bus depot and vehicle maintenance garage as bus depot and vehicle maintenance garage and/or B2/B8 storage use (within a Conservation Area) at 2 George Street, Batley.

Under the provisions of Council Procedure Rule 37 the Committee received representations from Haris Kasuji, the Agent (in support).

#### **RESOLVED –**

That approval of the application and issue of the decision notice be delegated to the Head of Planning and Development, in order to complete the list of conditions including those set out within the Committee report, as set out below:

1. 3 years.
2. Plans and specifications.
3. Access condition – no coaches or HGVs from George Street.
4. Charging points.
5. Noise conditions (levels not be exceeded).
6. Hours condition restricting the vehicle movement of non-passenger vehicles.

A Recorded Vote was taken in accordance with Council Procedure Rule 42 (5) as follows;

For: Councillors Bellamy, S Hall, Pattison, Patrick, A Pinnock, Sokhal and Walker (7 votes).

Against (0 votes)

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|  |   |   |                                    |
|--|---|---|------------------------------------|
| <p><b>KIRKLEES COUNCIL</b></p> <p><b>DECLARATION OF INTERESTS AND LOBBYING</b></p> <p>Strategic Planning Committee</p> |   |   |                                    |
| <b>Name of Councillor</b>  |   |   |                                    |
| Item in which you have an interest   | Type of interest (eg a disclosable pecuniary interest or an "Other Interest") | Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N] | Brief description of your interest |
|  |   |   |                                    |
|  |   |   |                                    |

**LOBBYING**

| Date | Application/Page No. | Lobbied By (Name of person) | Applicant | Objector | Supporter | Action taken / Advice given |
|------|----------------------|-----------------------------|-----------|----------|-----------|-----------------------------|
|      |                      |                             |           |          |           |                             |
|      |                      |                             |           |          |           |                             |
|      |                      |                             |           |          |           |                             |

Signed: ..... Dated: .....

## **NOTES**

### **Disclosable Pecuniary Interests**

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

(a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and  
(b) either -

- the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### **Lobbying**

If you are approached by any Member of the public in respect of an application on the agenda you must declare that you have been lobbied. A declaration of lobbying does not affect your ability to participate in the consideration or determination of the application.

**In respect of the consideration of all the planning applications on this Agenda the following information applies:**

## **PLANNING POLICY**

The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).

The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **National Policy/ Guidelines**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19<sup>th</sup> February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6<sup>th</sup> March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

## **REPRESENTATIONS**

Cabinet agreed the Development Management Charter in July 2015. This sets out how people and organisations will be enabled and encouraged to be involved in the development management process relating to planning applications.

The applications have been publicised by way of press notice, site notice and neighbour letters (as appropriate) in accordance with the Development Management Charter and in full accordance with the requirements of regulation, statute and national guidance.

## **EQUALITY ISSUES**

The Council has a general duty under section 149 Equality Act 2010 to have due regard to eliminating conduct that is prohibited by the Act, advancing equality of opportunity and fostering good relations between people who share a protected characteristic and people who do not share that characteristic. The relevant protected characteristics are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- religion or belief;
- sex;
- sexual orientation.

In the event that a specific development proposal has particular equality implications, the report will detail how the duty to have “due regard” to them has been discharged.

## **HUMAN RIGHTS**

The Council has had regard to the Human Rights Act 1998, and in particular:-

- Article 8 - Right to respect for private and family life.
- Article 1 of the First Protocol - Right to peaceful enjoyment of property and possessions.

The Council considers that the recommendations within the reports are in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.

## **PLANNING CONDITIONS AND OBLIGATIONS**

Paragraph 54 of The National Planning Policy Framework (NPPF) requires that Local Planning Authorities consider whether otherwise unacceptable development could be made acceptable through the use of planning condition or obligations.

The Community Infrastructure Levy Regulations 2010 stipulates that planning obligations (also known as section 106 agreements – of the Town and Country Planning Act 1990) should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF and further guidance in the PPGS launched on 6th March 2014 require that planning conditions should only be imposed where they meet a series of key tests; these are in summary:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects

**Recommendations made with respect to the applications brought before the Planning sub-committee have been made in accordance with the above requirements.**

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

Subject: Planning Application 2019/91467 Erection of 67 dwellings with associated access and parking land south of, Granny Lane, Mirfield

#### APPLICANT

Miller Homes Ltd

#### DATE VALID

02-May-2019

#### TARGET DATE

01-Aug-2019

#### EXTENSION EXPIRY DATE

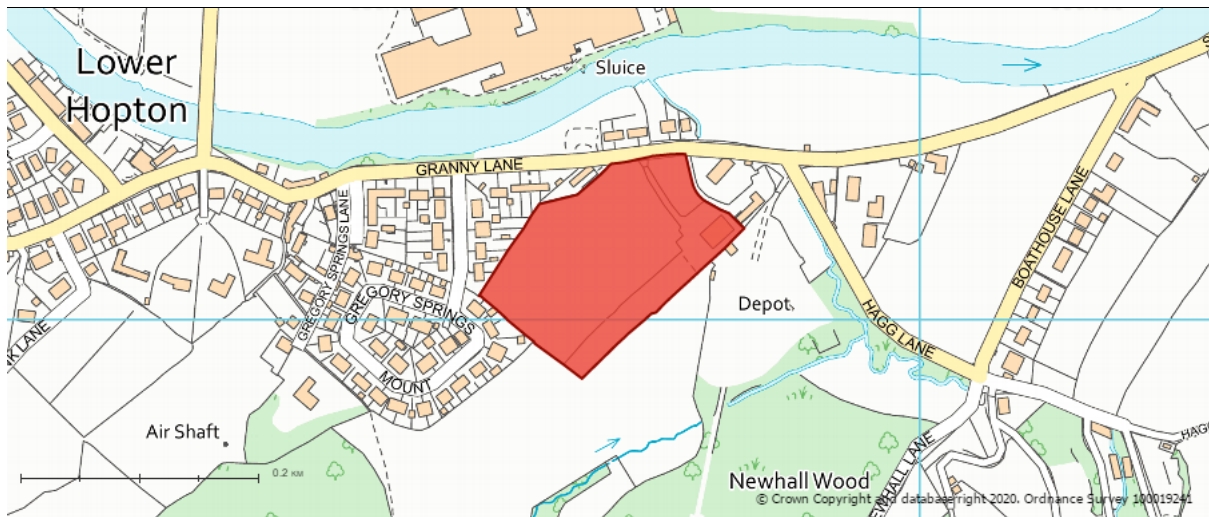
14-Jan-2020

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Mirfield**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions contained within this report and the sealing of the S106 Legal Agreement to secure the following:

- (i) The provision of 13 affordable houses of which 56% would be social affordable and 46% intermediate housing;
- (ii) A contribution of £58,808.00 to address the shortfall in open space requirements;
- (iii) An educational contribution of £157,992;
- (iv) Measures to a value of £52,533.50 to encourage sustainable modes of transport, including a Travel Plan, monitoring and arrangement and fees comprising:
  - £33,533.50 for bus only Residential Metrocards
  - £10,000 for real time information display at bus stop 17564
  - £10,000 to fund the Travel Plan
- (v) Arrangements to secure the long-term maintenance and management of the public open space;
- (vi) A £3000 financial contribution towards the future upgrade of a piped watercourse at the southern end of the site;
- (vii) A £5000 contribution for research and improvements to Valance Beck, which contributes to the flooding of Granny Lane in the vicinity of the access to the proposed development. These funds would contribute to items such as measures to stop debris flowing downstream reducing the risk of blockages;
- (viii) Arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals across the site, to include the flood route at the south west corner of the site as well as a management company to specifically manage and maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity

**1.0 INTRODUCTION:**

1.1 This is an application for full planning permission for a residential development of 67 dwellings.

1.2 It was deferred from the Strategic Planning Committee on 14<sup>th</sup> October 2020 to allow Officers the opportunity to fully consider a video of surface water flooding that was sent to the Council by the Granny Lane Area Action Group (GLAAG) and Save Mirfield on Monday 12<sup>th</sup> October 2020.

- 1.3 The application was originally brought to the Strategic Planning Committee on 19<sup>th</sup> December 2019 on the grounds that it related to a residential development of more than 60 units. The decision of that Committee was to support the officer recommendation to delegate approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions, including those set out within the Committee Report, and to secure a Section 106 Agreement.
- 1.4 Following that Strategic Committee, additional representations and correspondence was submitted by local residents and also, from the Save Mirfield and Granny Lane Area Action Group (GLAAG). Furthermore, on 20 January 2020, the Council received notification that the Secretary of State (SoS) for Housing, Communities and Local Government had received a request to 'call-in' the application. The SoS responded by letter dated 29<sup>th</sup> January 2020 to confirm that the Secretary of State had decided not to call in the application. He was content that it should be determined by the Local Planning Authority on the basis that the application does not involve issues of more than local importance justifying the Secretary of State's intervention.
- 1.5 Additionally, as a consequence of specific questions raised by the residents' groups (Save Mirfield and GLAAG) and, following flooding events that occurred in West Yorkshire in the early part of 2020, the Council undertook some additional consultation on 20<sup>th</sup> April 2020 with the Environment Agency, Yorkshire Water and the Lead Local Flood Authority. Their responses are detailed in the report below.
- 1.6 A further consultation exercise has also recently been undertaken in December 2020 following the applicant's submission of a Drainage Technical Note to address concerns associated with overland flows on the south eastern boundary of the site, including a slightly modified site layout. This was sent to local residents, the Environment Agency, Yorkshire Water and the Lead Local Flood Authority. Again, the responses received are set out in this report.
- 1.7 In the meantime, Officers have continued to work with the applicant to complete the S106 Legal Agreement and to prepare a final list of conditions. The resolution of these matters was significantly delayed by the Covid pandemic and private sector furloughing but it is now close to completion. However, taking into account all the circumstances above, it is considered appropriate that the application be brought back to this Strategic Planning Committee for determination again in accordance with the recommendation above.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site extends to 2.2 hectares in size, situated approximately 1km to the south of Mirfield Town Centre. It lies to the south of Granny Lane and comprises two paddocks and agricultural buildings/stables. An existing vehicular access leads south from Granny Lane, providing access to these buildings and an area of hardstanding surrounding them. The largest paddock is broadly rectangular in shape, with residential development on the northern, eastern and western sides. A smaller, narrow paddock runs along the south/south eastern boundary, separated from the main paddock by a hedgerow.

- 2.2 The immediate area surrounding the application site is semi-rural in character with residential properties concentrated to the east and open land extending to the south. The River Calder lies to the north of the site on the opposite side of Granny Lane.
- 2.3 Sheep Ings Farm is located to the east of the site, close to Granny Lane. The farm comprises a farmhouse and attached barn, which are Grade II Listed.
- 2.4 The site is allocated for residential development in the Local Plan (site allocation HS66). Biodiversity Opportunity Zones (Flood Plains and Pennine foothills) also cover the site and the northern part is located within Flood Zones 2 and 3. The remainder of the site is within Flood Zone 1. The majority of the land is within a Development High Risk Area as defined by the Coal Authority and a small area at the northern boundary of the site lies within the inner, middle and outer consultation zones of a 'high pressure gas main', which is located in the immediate vicinity. The site is also within a minerals safeguarded area where potential sand and gravel and surface coal resources are located.

### **3.0 PROPOSAL:**

- 3.1 This application seeks full planning permission for the construction of 67 dwellings, comprising the following:

11 x 2-bedroomed dwellings  
27 x 3-bedroomed dwellings  
25 x 4-bedroomed dwellings  
4 x 5-bedroomed dwellings

- 3.2 The site would deliver 13 affordable homes, which would represent 20% of the dwellings. A range of house types is proposed, comprising mainly semi-detached (26 units) and detached (38 units) styles but including a terrace of 3 town houses.
- 3.3 A single access point is proposed from Granny Lane, utilising an existing entrance into the site. This would be widened to meet adoptable highway standards and create a new priority 'T' junction. The existing stone wall at the entrance would be taken down and re-built at the rear of the visibility splay and a widened footpath provided. The internal estate road would be a loop road, providing access to houses both external and internal to the loop.
- 3.4 Red brick and a mixture of red brick and render is proposed for the elevations of the dwellings with a mix concrete roof tiles.
- 3.5 A local play area (LEAP) and public open space measuring approximately 2,350m<sup>2</sup> is proposed at the front of the site, either side of the entrance.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 There is no recent planning history relating to the site. However, the following historic planning applications are relevant to this proposal.

88/05073 – Outline application for residential development  
Withdrawn

88/05310 – Outline application for 10 houses with garage and new access road  
Refused

98/90303 – Erection of farm store and building  
Approved

2004/93159 - Demolition of Barn Store and Stables and erection of  
Workshop/Barns/Stables/Garage Building Ancillary to existing House at  
Sheep Ings Farm.

Refused: 26 August 2004

This application principally related to development outside of the application site, apart from a small area of overlap in the north-eastern corner. The application was refused because of the impact of the proposal on the setting of the adjacent Listed Building, the detrimental effect of its scale, design and appearance on the openness of the Green Belt and insufficient flood risk information.

- 4.2 The Council are investigating a current alleged material change of use of part of the site to a concrete processing plant. However, this land is not currently within the applicant's ownership and as such, it is not relevant to the consideration of this application.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 The applicant sought pre-application advice with regard to the residential development of the site in 2018 in accordance with pre-app reference 2018/20301. Written pre-application advice was provided on 24/08/2018. This letter addressed key matters including policy considerations, design and layout, highway impacts, flood risk and drainage and residential amenity.
- 5.2 As set out in the applicant's Statement of Community Involvement (SCI), a community consultation exercise was undertaken in September 2018. The applicant delivered letters to the occupants of residential properties in the vicinity of the application site and the SCI confirmed the receipt of 15 responses. These raised issues including objection to loss of views, highways impact, possible flood risk and drainage issues and amenity considerations.
- 5.3 During the life of the application, the applicant has provided the following additional information:
- A revised Flood Risk Assessment and additional drainage information;
  - Revised layout to accommodate surface water drainage arrangements, to include the recent inclusion of an exceedance corridor to the rear of plots 32-36.;
  - Supplementary highways information in the form of a Technical Note;
  - Revised landscape planting.
  - A Drainage Technical Note to address drainage concerns associated with overland flows on the south eastern boundary of the site;
  - A revision to the layout to accommodate Section 38 highway requirements to slightly widen the eastern bend of the estate road.

## 6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that Planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (Adopted 27 February 2019):

6.2 The site is allocated for residential development in the Local Plan (Reference HS66). It is identified as having a gross site area of 2.23 hectares and a net site area of 2.03 hectares, the latter being calculated by omitting the part of the site that lies within Flood Zone 3 and a heritage area of high significance adjacent to the adjoining Listed Building.

6.3 Based upon the net site area, the allocation sets out an indicative housing capacity of 70 dwellings. It also identifies the following constraints relevant to the site:

- Part of the site is within Flood Zones 2 & 3;
- The site is close to Listed Buildings;
- All of the site is within a high risk coal referral area;
- The site is affected by hazardous installations / pipelines.

6.4 In addition, site allocation HS66 identifies several other site specific considerations, which are outlined below:

- No residential development to take place in Flood Zone 3
- Adjacent to the Wildlife Habitat Network
- Links required to the core cycling network
- Proposals would identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment or any updated Heritage Impact Assessment submitted by the applicant as part of the Planning application process.
- In order to safeguard the setting of the Grade II Listed Building known as Sheep Ings Farmhouse, no development shall take place on the field/area marked as high significance in council's HIA to the east of the track running south from Granny Lane across the site

6.5 Relevant Local Plan policies include the following:

- LP1 – Presumption in favour of sustainable development
- LP2 – Place shaping
- LP3 – Location of new development
- LP7 – Efficient and effective use of land and buildings
- LP11 – Housing mix and affordable housing
- LP20 – Sustainable travel
- LP21 – Highways and access
- LP22 – Parking
- LP24 – Design
- LP26 – Renewable and low carbon energy
- LP27 – Flood risk
- LP28 – Drainage

- LP30 – Biodiversity and geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP35 – Historic environment
- LP38 – Minerals safeguarding
- LP49 – Educational and health care needs
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land
- LP63 – New open space
- LP65 – Housing allocations

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Strategic Housing Market Assessment (2016)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Highway Design Guide (2019)

National Planning Policy and Guidance:

6.7 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters include:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of minerals

6.8 Other relevant guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)

## 7.0 PUBLIC/LOCAL RESPONSE:

- 7.1 In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO), the application was originally advertised as a major development by means of four site notices, an advertisement in the local press (The Press – 24 May 2019) and by direct neighbour notification. This specified the statutory period of 21 days, expiring on 15<sup>th</sup> June 2019.
- 7.2 Although there is no statutory requirement under the DMPO to re-consult on planning applications, a further consultation on additional/amended details was undertaken by letter dated 4th December 2019 for a period of 10 days, expiring on 16th December 2019.
- 7.3 In the interests of fairness, following the submission of the Drainage Technical Note and modified layout to accommodate this and Section 38 highway requirements, another consultation exercise for local residents was undertaken in December 2020. The letters were dated 22<sup>nd</sup> December and residents and interested parties were given until 14<sup>th</sup> January 2021 to respond, to account for the Christmas period.
- 7.4 A total of 97 representations were received from the occupants of neighbouring properties/members of the public to the first two rounds of consultation in May/June 2019 and December 2019. This included a representation objecting to the proposal from Save Mirfield with 792 signatories. At the time of writing this report, a further 67 representations have been received to the most recent consultation exercise. An objection has been received from GLAAG and Save Mirfield as well as a further objection letter from Save Mirfield supported by 849 of their members (listed separately).
- 7.5 The following is a summary of the points raised. It is not a complete replication of the responses, which can be viewed in full on the Council's website at <https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91467>

### Flood Risk and Drainage

- The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.
- The revised plans will only serve to flood further properties in the vicinity.
- It is assumed that Miller Homes propose diverting flood water into the stream that runs through Cuckoo Hill, which joins Valance Beck half way down Hagg Lane. The resident of Boathouse Lane finds this completely unacceptable. The two streams currently carry a large amount of water at times of heavy rainfall. Any addition to this would lead to increased flooding at the junction of Hagg Lane with Granny Lane.
- Diverting water onto Hagg Lane as proposed by Miller Homes will just make the flooding worse on that road endangering the houses that are already there. Flooding on Hagg Lane is well known due to the water coming down from the hills and diverting it from the proposed site is totally unacceptable.

- 'This is still a ludicrous proposal for building on a field which is a natural soak away for the surrounding area which regularly floods'.
- The latest application includes a new proposal to divert flood waters - this just means that other properties/areas will be affected instead and isn't fair on the residents who already live in this area.
- 'Leave the green fields alone. All they will do is divert the water to someone else'.
- The revised plans will only serve to flood further properties in the vicinity. Surely the council must have the interests of its existing (not potential) residents in mind when taking these decisions.
- 'Water meadow does not need any housing building due to flooding and extra flooding to Ship Inn due to excess water run-off and diverted water to Hagg Lane. Plus houses on Granny Lane will suffer from more flooding. The bungalows, also on Granny Lane, will get floods from the river and ex water meadow. We need to stop taking low lying land that helps to limit flooding';
- The Ship Inn has been flooded at least four times last year. Building on the water meadow will cause more problems for the Ship Inn and the access road from Granny Lane;
- It is contemptuous for any developer/consultant to ignore local educated knowledge. The amended details skirt around the issues of safety and flooding and do not give a substantive or adequate solution for either. The proposed diversion of surface water via a gully dug out at the rear of the development to be distributed onto Hagg Lane does not in any way alter the fact that surface water flooding will occur. All the amendment does is take it away from the new homes to worsen the flooding of existing homes.
- By moving and altering water course you are protecting new builds at the sacrifice of existing houses which goes against the Local Government duty of care to protect existing homes from flooding.
- Allowing this development will simply endanger lives not only of those who live there already, but those on the street to be built who will be cut off completely. Not to mention their gardens will be water logged for months on end;
- The field currently slows the water entering the river and is a natural flood defence if anything trees should be planted to stem this flow further.
- 'The mitigation and dismissal of the flooding that has happened frequently in this area is poor at best. The plan to move water elsewhere is not a viable solution and the use of the storm as though it was an "exceptional event" is absurd'.

- The site lies at the foot of a natural amphitheatre with regard of some 800-900 acres of woods and lands all channelled into Valence Beck and other becks running through Hopton Mills. In heavy weather, the pipe cannot cope with the volume of water and overflows onto Hagg Lane.
- The recently dug channel adjacent to the boundary fence diverts any water that collects through the boundary fence onto Gregory Springs pit site entrance and onto Hagg Lane. This surface water will be discharged onto the road and add to the existing problem.
- Lifting the houses and forming embankments will only move the problem for others to deal with.
- There is no scientific solution, no calculations of water volumes or how they will increase by the removal of trees and what the consequences are for areas downstream.
- This field has always flooded annually from water build up from the Liley Beck and other springs that feed into it. It also floods on the road leading to it and because the River Calder is only 50 yards away.
- The proposal will exacerbate the already untenable flooding situation in the surrounding area and it is totally unacceptable to build houses in this location.
- Once more this week, of the 21st Dec 2020, heavy rain caused flooding down Steanard Lane and the beck running down Hagg Lane was at its limit. To consider additional run off into Hagg Lane would be dangerous as well as ill considered. The water table throughout the whole autumn and early winter has remained very high.
- Granny Lane frequently becomes impassable, as the water tries to reach the River Calder. This will never change due to the geographical formation of the valley and hills. The water meadow, if anything, if left to be a flooding area, will help controlling the flooding and should be left to be what it is 'a water meadow'.
- When storm Ciara occurred. Hagg lane and Boathouse Lane were like rivers with flood water flooding into drives and gardens. So Millers proposals would only make this worse.
- The amount of water that runs from the hills cannot be stopped once the ground is saturated.
- This area should be a protected flood plain in light of the annual flooding history of this site.
- The land in question is a local flood plain that regularly floods. If houses are to be built on it, this will only make floods in the area worse both for the roads and other residents' houses in the vicinity.
- The latest amendment is factually incorrect. It is very simplistic to imply that all the flooding we suffer year after year is merely due to blocked ditches.

- Why were the matters contained in the latest Flood Technical assessment not considered at the outset? Why has it take a year and a half of extreme pressure and campaigning by the Granny Lane Action Group to have the flooding position considered more carefully? What was seen in the video taken during Storm Ciara is not a one off incident – it happens every time there is significant rainfall.
- There is suggestion in the report by RWO and the LLFA's report that the widening and maintaining of ditching to the rear of the plots affected will 'reduce the risk of the event witnessed in February 2020 re-occurring'. Note that the risk will be reduced and not removed.
- The river regularly floods and any occupants of this proposed development would be put at risk. It is part of the flood plain of the River Calder and has flooded 6 times in the last 5 years.
- It is believed that the applicant's intention is to direct sewerage and rainwater from the site into a holding tank underneath the green area by Granny Lane from where it would be pumped into the main sewer under Granny Lane; if the pump fails or if the increased rainfalls predicted overwhelm it then the tank will overflow onto Granny Lane and threaten the houses opposite with flooding.
- Concern that comments from Yorkshire Water are based on surface water being drained to an existing water course and this has now changed.
- Concern that the sewer which would be used to drain surface water may not have adequate capacity.
- The site entrance is located within Flood Zone 3 but the supporting Flood Risk Assessment indicates that it is located within Flood Zone 2.
- Concern that the proposed surface water drainage channel on the southern boundary of the site would lead to flooding of existing properties to the south as the site is not suitable for a SuDS system.
- Concern that the surface water drainage channel should not be maintained by a private management company as maintenance may not be carried out.
- How has the £3000 requested to contribute towards the potential upgrade of the off-site water course been calculated.
- A sequential test has not been applied with regard to flood risk in connection with this proposal as required by the National Planning Policy framework.
- The Exception test has not been applied with regard to the use of this site for housing within a flood risk area.
- The proposed surface water attenuation tank may not be adequate to deal will surface water drainage from the site therefore exacerbating flood risk.

- The proposed attenuation tank associated with the surface water drainage regime for the site could be damaged if emergency vehicles use the proposed emergency access.
- A technical appraisal prepared on behalf of an objectors group of the applicant's supporting Flood Risk Assessment was submitted identifying 32 objections relating to this proposal with regard to its potential impact on Flood Risk (this is addressed in Paragraph 10.70).

### Highways and Transport

- The proposal would lead to extra traffic which would detrimentally affect highway safety as Granny Lane and Steanard Lane are not adequate to deal with existing levels of traffic. Objectors have commissioned a traffic assessment to support this view, a copy of which was passed to the Council's Highway Development Management Team for their consideration.
- The traffic using Steanard Lane remains at saturation point and the additional traffic generated by 67 new homes would overload the traffic infrastructure creating a dangerous impact on highway safety.
- What provision has been made for Traffic Calming measures if these houses are built? Are Traffic lights/ speed bumps going to be introduced for the increase in traffic exiting the proposed site?
- Existing footways on Granny Lane and Steanard Lane are inadequate and additional traffic would increase the risk of pedestrians being injured.
- Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development.
- The entrance to this site is set back and will be dangerous as the speed that cars travel on that road is not controlled.
- Still no reference to road safety. These narrow lanes are a threat to pedestrians and traffic as it is without extra vehicles being introduced. The initial road safety assessment was poor and weak and ignored all local knowledge and experience of the narrow lanes.
- By widening the footpaths to the East of the site, this does nothing to aid road safety as the blind bend is still the same and the road remains the same width.
- The highway consultant acting on behalf of the GLAAG and Save Mirfield has written to confirm that in the absence of measures to mitigate their concerns, the objections to the proposed development on highway grounds detailed in their 'Objections Report' dated 16 September 2019 remain applicable. In addition, they consider the proposed emergency access on Granny Lane to be unsatisfactory.
- Granny Lane is narrow with a thin pavement. The access from Huddersfield road is also single lane across the bridge. The increase in cars needing granny lane will cause additional problems on Huddersfield road which is already problematic at rush hour.

- Insufficient car parking.
- It is also only accessible by one local road and the extra traffic would be excessive for the size of road.
- The associated increase in traffic volume will convert the whole area into an unpleasant place to live.
- The roads around this proposed estate are not big enough for another 160 cars doing 5+ extra daily journeys each on Granny lane and Steanard Lane.
- It is not obvious on these plans how narrow Granny lane is at the junction with the new estate, the increased traffic on this narrow lane is going to create safety issues for road users and pedestrians alike.

#### Wildlife/Environmental

- The proposal would have a detrimental effect on local wildlife.
- The proposal would result in the loss of existing hedges which provide a significant wildlife habitat.
- This development would result in the loss of Green belt.
- The loss of trees associated with this development is unacceptable.
- Trees and bushes have already been removed from the site without consent.

#### Heritage

- The development would have a detrimental impact on Sheep Ings farm which is a Grade II Listed Building;
- The field where development would take place is an archaeological site.

#### Local Amenity

- Allowing a further 67 dwellings in the area would lead to additional noise and air pollution.
- The development of the site would result in a loss of privacy for existing residents.
- There is no capacity at existing schools and doctor's surgeries to deal with this number of additional residents bearing in mind the number of other developments taking place in the area.
- The proposed location of the temporary compounds on site are unacceptable as they would lead to a loss of privacy for existing residents.

## Miscellaneous

- Developing this land would affect existing house prices in the area.
- The addition of this number of properties doesn't have supporting infrastructure of school places, amenities, wider roads.
- The local school is over-subscribed.
- Concern about the devastation a housing development of this magnitude would wreak on the local environment, including the effect on streams, watercourses, footpaths (including litter and traffic), light pollution.
- When Dewsbury Riverside is built the woods will be hemmed in by new build housing estates.
- There are plenty of brownfield sites which should be developed before this site and this approach is encouraged by government. These include the Old Swan pub site or use the Kenmore site for housing rather than a supermarket.
- If these houses were to be built, which schools would the children be put into? At the present moment schools in the local area are already oversubscribed and underfunded.
- Which doctors will these residents attend? Mirfield Health Centre is not big enough and cannot cope with the local residents which are already registered.
- How will the construction vehicles get to the site and how will noise pollution be controlled? The low bridges between the site and Mirfield will make it difficult for lorries to reach the site.
- 'Building houses on greenbelt land which also acts as a flood plane is foolish and short-sighted'.
- There are lots of buildings that could be reused – we should think more about refurbishment than new build.
- Coal mining has historically taken place in this area and houses built on this site may therefore be susceptible to subsidence.
- The development of this site is over development designed to maximise the profits of the developer.
- Previous planning applications to build on this site have been refused.
- The proposed houses are not in keeping with those existing in the area.

- The floods over the years have damaged the walls and fencing dividing the road from the river on the opposite side to proposed development and this also would need replacing along Granny Lane and Steanard Lane to provide safety for road users including cyclists, horse riders and pedestrians.
- The proposal does not include any significant measures to mitigate impacts on climate change.
- Banners and posters placed at the site by objectors have been removed without their consent.
- Horses are being forced off the only off road riding areas - this will add to inaccessibility.
- Poor access for construction equipment and delivery lorries with only Hopton Lane giving headroom for taller vehicles and all routes being narrow minor roads with difficult bends.
- A concern that Officers had pre-determined the proposal before its report to the 19<sup>th</sup> December Committee because the recommendation indicated in the Committee Report was to delegate back to Officers to approve subject to the resolution of a Section 106 agreement and relevant Planning conditions, yet a further consultation period relating to amended information received did not expire until 16 December 2019.

7.6 The Save Mirfield and GLAAG residents' groups have provided the following response to the Drainage Technical Note and associated plans submitted in December 2020:

- The ill designed proposal does nothing to mitigate the flood risk. In fact this will serve to exacerbate the flooding on Hagg Lane and Granny Lane;
- Assume that this change to the discharge of flood water will be discussed with Yorkshire Water, the Environment Agency and Highways due to the proposed addition of an unpredictable and uncalculated volume flow of overland water directly onto the junction of 2 highways;
- The LLFA noted on a site visit that the homes across the road from the site should never have been built. Given that these are 90 years old suggests that the effect of climate change is all too evident. To say that they would never get planning permission now, whilst across the road there are 67 homes being considered on an ancient flood plain/water meadow, demonstrates that the effects of climate change on our community is of little consequence to the planning department.
- It is vital to carry out the Exception Test, which must demonstrate benefit to the community for the lifetime of the development (NPPF). Without this test how can the Council be fully confident that all homes within the vicinity, that is Granny Lane, Gregory Springs Road, Gregory Springs Mount, Gregory Springs Lane and Hagg Lane will benefit from the development in the long term?

- Taking into consideration the flood behind Gregory Springs Mount which enters gardens there, and for which there is some conflict as to the origin, land ownership and responsibility, coupled with the vague calculation of the proposed storage tank and hydro brake to adequately compensate for the loss of the natural surface storage area, without the back up of 2 sewage, these factors remain a serious concern. The health and safety of all residents should be a priority.
- The LLFA has circulated information to Councillors about the poor state of the drainage systems on Hagg and Granny Lane. Since this is a known high risk flood area, surely such a survey should have been carried out prior to the original submission of the application to the Committee?
- It is known that the Council Officers have met the landowner and Miller Homes on site. It is considered that everything is being done to support Miller Homes. It is noted that it is not unusual practice to meet with interested parties but the LLFA showed some reluctance to meet other members of the community- not exactly an even-handed approach when he claims to be “independent”.
- The photograph captioned ‘Section of channel to rear of existing development’ is of interest. This channel was hastily dug recently by the landowner and was not remedial work on an historical channel that has been used in the past as stated in the LLFA report dated January 4th. Perhaps the LLFA suggested it to the landowner as he did discuss this at the meeting.

Save Mirfield and GLAAG maintain all their objections on the same grounds as before:-. Emergency access, road safety, sustainability, transport links, heritage, the environment, biodiversity, local amenities and the general poor quality of the original application which, in their view, sought to mislead the Committee.

7.7 Additionally, Save Mirfield (SM) have provided an additional response and objection to the application. It refers back to their original objection dated 20 June 2019 but notes that this letter is supported by a further 57 people. SM advise that the points in their original letter and subsequent communications still stand. In response to the amended details, they note that SM ‘continue to have no confidence in the developer’s proposals as regards the issues around drainage’.

7.8 A letter has also been submitted by a firm of Solicitors on behalf of their clients, Granny Lane Area Action Group and Save Mirfield. For the most part, the letter reproduces paragraphs from the NPPF and National Planning Guidance on Planning and Flood Risk and highlights specific sections. A summary of the specific points the letter raises is set out below:

- It is understood that the landowner/applicant is proposing to dig out some blocked drainage further along the site and ‘reinstate’ a previous drainage route. Not only does this previous drainage route not exist to our clients’ knowledge and so, a new route is proposed which has not been assessed as to its suitability and impact on the Site and

surrounding area, but if used it will result in the drainage being discharged into the road at the junction of Granny Lane and Hagg Lane. No assessment has been undertaken of this proposed new route or of the ability of the junction of Granny Lane and Hagg Lane to cope with the resultant drainage discharge. Furthermore, at a meeting with local residents on 2 October 2020, Mr Paul Farndale stated that no matter what was proposed, betterment could not be achieved for several local residents.

- To date, only an area wide desktop drainage assessment has been undertaken. In light of Mr Farndale's comments at the meeting on 22 October 2020, the proposed new drainage route, the time that has elapsed and further evidence produced, it is our client's view that a Sequential test should be undertaken and, if applicable, an Exception test should also be undertaken.

7.9 Mirfield Town Council was consulted on the original proposal and responded as follows:

*"Cllr Bolt Proposed: MTC strongly opposes the development as it currently stands on the following grounds: impact on highways, sight lines, drainage & flooding, traffic, inadequate provision for infrastructure, over intensification of site, impact on Grade II listed building, coal workings, contaminated land, loss of green space & amenity, environmental impact and impact on local wildlife. The council requests, in addition, a full independent archaeological survey of the land. Cllr K Taylor Seconded Vote: All in favour"*

7.10 Prior to the application being reported to the Planning Committee on 16<sup>th</sup> December 2019, comments were received from the Ward Councillors – Councillor Bolt and Cllr Lees-Hamilton. Whilst these relate to the timing of the previous Committee, they are set out below in full for completeness.

Cllr Bolt (December 2019)

*"I note that you say the report on the Granny Lane Planning application was finalised last week. However I would point out that according to the Planning application on website, the public consultation doesn't end until today. How can you have ensured that all matters raised in consultation have been considered and assessed?"*

*I once asked a question at committee and was told that all parties should have access to the same information on the agenda, in this case it may be that the applicant, a statutory consultee or residents may have made technical submissions which the others aren't party to, and so this premise is not carried through. I am copying the MP for the Mirfield area into this as I know he has an interest in this matter and will be concerned at the process followed.*

*In the circumstances I suggest this matter is removed from this Thursday's agenda and brought back when reports can be compiled in full for inclusion in the agenda"*

*“I am emailing in support of Martyn’s comments. It is not good enough to update the members of the Planning committee a few hours before the meeting, members should be allowed the time to correctly digest any new information regarding a Planning application. Just as importantly objectors and applicants should be given time to study new information that may come light and to have the appropriate time to prepare a response before committee. I too suggest this matter be removed from the agenda and brought back at a more suitable date after all the results of the public consultation have been included into the report.”*

7.11 Following the report to Planning Committee in December 2019, there has been on-going correspondence between the Council and the Granny Lane Area Action Group (GLAAG) and Save Mirfield. This has included an entitled ‘letter before claim’ in accordance with the Civil Procedures Rules (CPR) Protocol for a proposed claim for judicial review’ dated 24th August 2020. The purpose of any pre-action protocol letter is to identify the issues in dispute and establish whether they can be narrowed or litigation can be avoided. However, until a decision on the application is taken, no claim for judicial review can be pursued. Nevertheless, taken together, their letters have raised a variety of issues, which can be broadly summarised as follows:

- The detailed report commissioned by GLAAG pursuant to the submitted FRA was not properly considered nor the significance of its findings conveyed to the Planning Committee;
- The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the Committee;
- Queried why the applicant was not required to correct the FRA in relation to part of the site access being within Flood Zone 3 when they were told about it in October 2019 and details of the emergency access should be required as a consequence;
- Page 21 of the KRS report (A technical appraisal prepared by KRS on behalf of the objectors’ group of the applicant’s supporting FRA) states that there is no route available for access to the west of the site. This alone should, in their view, make the site untenable given that the entrance is in Flood Zone 3;
- The Council have advised that finished levels of the site entrance will be raised but consider that it would not be significant. The consultant for GLAAG and Save Mirfield has looked at the contours and approximated this to actually be 1:35 at this point. They query why the Environment Agency was not made aware of this as their condition was no elevation of ground levels in Flood Zone 3?
- Query over the proposed method of drainage and any potential shortfall;
- Consider that drainage should be approved prior to any decision making and not subject to a condition;
- A concern that Yorkshire Water cannot guarantee that if sewerage levels raise, foul effluent will not run back into the storage tank;
- Assuming that the storage tank will be underground, will the land above it need to be raised?
- The large amount of deforestation on Hagg Lane, alongside Valance and Liley Clough Becks raises questions about the currency and accuracy of the Flood Risk Assessment;
- Still maintain that the Sequential Test has not been passed and requested evidence to clarify why the Exception Test was not necessary;

- Do not believe that the emergency route has been assessed with regard to its suitability to accommodate emergency vehicles such as Fire Engines, Ambulances or Police vans, particularly as they would be driven over the roof of the attenuation tank;
- Ground levels at the main site access/egress have been raised. This was in contravention of the EA's original conditions;
- The emergency access road is just a few yards away from Flood Zone 3 and its proposed route takes it perilously close to Flood Zone 3. What calculations regarding this have been made to plan for climate change?
- The elevations of the roads and development worry the residents. The concern is that water flows downhill and the velocity of flow depends not only on the rainfall but also on the slope of hard surfaces. They believe the additional problem of the steeper gradient at the emergency access should be drawn to the attention of the LLFA, Highways and the Environment Agency.
- The Council have acted illegally in allowing a development contravening its Local Plan;
- The Council was negligent in allowing the development in non-developable areas;
- The Council failed to advise the applicant in its pre-application advice on specific limitations on the site imposed in the Local Plan;
- The Council allowed errors to persist (such as the applicant stating the entrance is in Flood Zone 2 when it is in Flood Zone 3) and took no action to correct them;
- The Council failed to protect the area deemed to be of high significance in the Council's own heritage impact assessment;
- The Council unilaterally closed the public consultation period and prepared its final advice to the planning committee four days early (pursuant to the original December 2019 Committee);
- The update report to the last Committee (December 2019) was dismissive of additional matters raised;
- The advice to the planning committee, and on which it made its deliberations on 19th December 2020, was biased in favour of the applicant and throughout the planning process, the Council went out of its way to assist the applicant;
- Planning conditions are proposed for matters such as the emergency access which is contrary to all accepted planning practice.

7.12 Responses to all of the above comments are either addressed within the Assessment below or at Paragraphs 10.85 to 10.91 of this report.

## 8.0 CONSULTATION RESPONSES:

### **Statutory:**

Coal Authority - No objection based upon the findings of the supporting Ground Conditions Assessment.

KC Highways – No objection subject to planning conditions, which require the following:

- Areas to be used by vehicles and/or pedestrians to be satisfactorily surfaced and drained;

- The submission and approval of a scheme providing details of the adoptable estate roads;
- The submission and approval of a construction management plan;
- The submission and approval of a scheme providing details of all new retaining walls adjacent to the public highway;
- The submission and approval of a scheme detailing all new surface water attenuation measures.

In addition it is requested that any Planning permission is subject to a section 106 agreement to secure measures to encourage sustainable modes of transport including travel Plan and arrangement fees. These financial contributions comprise:

- £33,533.50 for bus only Residential MCards.
- £10,000 for a real time information display at bus stop 17564
- £10,000 to fund the Travel Plan

KC Highways have also responded to the latest set of plans received on 21<sup>st</sup> December 2020. They comment that the newest layout supplied by the applicant amends the visitor parking arrangements and widens the carriageway on the north-eastern bend in front of plots 37, 66, and 67 to improve forward visibility. These changes are seen as a benefit to highway safety, and Highways DM do not wish to raise any objection to the scheme.

KC Lead Local Flood Authority – Taking into account the latest documentation provided by the applicant, following the submission of the video of surface water flowing across the site provided by GLAAG and Save Mirfield on 14th October 2020, the LLFA still raise no objection to the proposal subject to the following planning conditions/obligation:

1. Development shall not commence until a scheme detailing foul, surface water and land drainage, (including off site works, connection to public sewer at a maximum of 5l/s, balancing works for the 1 in 100 + 30% climate change critical event, Plans and longitudinal sections, hydraulic calculations, phasing of drainage provision, existing drainage to be maintained/diverted/abandoned) has been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained.
2. Development shall not commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail:
  - (i) Phasing of the development and phasing of temporary drainage provision.

- (ii) Include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

- 3. Development shall not commence until a scheme detailing the design, construction, operation, maintenance and management of emergency access roads and surface water flood route pathways to avoid curtilage flooding has been submitted and accepted in writing by the Local Planning authority. The scheme shall be installed and retained thereafter.
- 4. Development shall not commence until a detailed cross sectional design of the southern plots with rear gardens and across the border with adjacent land is required. This should include a clear indication of fences and hedgerows to be maintained, removed, or replaced, along with ditching dimensions and any bunding required. It should also include details of levels and gradients.

A financial contribution of £3,000 to contribute towards the future upgrade of a piped water course at the southern edge of the site. In addition, a contribution of £5000 is sought for research and improvements to Valance Beck, which contributes to flooding of Granny Lane in the vicinity of the access to the proposed development. This will be secured through the Section 106 agreement along with long-term maintenance and management arrangements of the applicant's surface water drainage proposals, to include a management company to specifically maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity so that blockages to the route(s) are less likely to happen post development due to a stated maintenance programme that can be enforced.

The Environment Agency – In response to the original consultation, the EA objected to the application in October 2019 on the grounds that the FRA failed to demonstrate that there was no transfer of flood risk to others. Following the submission of an updated FRA in early November 2019, the EA subsequently confirmed that they had no objection subject to the following measures:

- (i) Finished floor levels shall be set no lower than 45.87 m above Ordnance Datum (AOD).
- (ii) No raising of ground levels in flood zone 3

The EA were re-consulted on the revised FRA (Version 7) on 21 April 2020 (post-Committee) and again confirmed that the development would meet the National Planning Policy Framework's requirements if a planning condition was included to secure the following:

- (i) Finished floor levels shall be set no lower than 45.87 m above Ordnance Datum (AOD).
- (ii) No raising of ground levels in the area of public open space (POS) located within the flood zone 3 extent shown in drawing SK1 (rev 1) in Appendix D of the FRA.

The EA were also consulted in December 2020 on the submission of the most recent information comprising the Drainage Technical Note to address drainage concerns associated with overland flows on the south eastern boundary of the site and the associated layout changes. The EA have advised by letter dated 5<sup>th</sup> January 2021 that they have reviewed the submitted document “Granny Lane – Technical Note 21.12.2020” produced by RWO Associates Ltd, and have the following comment to make:

‘This document is concerned with drainage matters relating to Valance Beck, which is an ordinary watercourse and therefore it is a matter for the Kirklees LLFA to comment on, not the Environment Agency. However, we advise that the recommendations for mitigation measures, including long term maintenance, are secured by a S106 agreement, or planning condition’. NB This would include the £8K secured through the S106 agreement.

Health and Safety Executive – No objection

**Non-statutory:**

KC Biodiversity Officer – No objection subject to planning conditions to secure proposed biodiversity enhancements and compensatory hedge planting. As part of the latest round of consultation, the Bio-diversity Officer confirms that they have no further comments to make.

KC Conservation and Design – No objection.

KC Education – £157,992 secondary education contribution required. No primary school contribution required.

KC Environmental Health – No objection subject to planning conditions which require:

- Further intrusive investigations and that any on site contamination is satisfactorily dealt with
- That a noise assessment is carried out to assess the potential impact of nearby noise generating uses on the occupants of the new dwellings
- The installation of electrical vehicle charging points
- The submission of a travel Plan which encourages the use of sustainable methods of transport
- The submission of a dust suppression scheme

KC Housing – No objection subject to an affordable housing tenure split of 54% social or affordable rent to 46% intermediate housing.

KC Landscape – No objection in principle. However, based on the number of dwellings, there is a shortfall of Public Open Space provision and a financial contribution of £58,808.00 is required in lieu of this shortfall. In addition, details of bin storage and collection must be agreed.

KC Trees – No objection. The Tree Officer has noted that as per the tree survey supporting the application, the Ash trees on/adjacent to the site are infected with 'Inonotus', a decay fungus. Therefore, they are in poor condition to a point that they will require removal in the near future and no new TPO can be served on them. If these trees did have to be removed ultimately a scheme for replacement trees would be sought.

WY Archaeology Advisory Service – Following the submission of a Trial Trench Evaluation for the site dated November 2019 and received 12 December 2019, WYAAS subsequently advised that there is sufficient archaeological at the site to warrant further targeted work. The trial trenching has established that a backfilled boundary ditch and several small pits and a post hole are present. Although undated, these are indicative of past human activity within the site. It is therefore proposed to require further archaeological work prior to development commencing via planning condition.

West Yorkshire Police Crime Prevention Design Advisor – No objection in principle, but has recommended that the development should include the following measures:

- 1800mm high walls or close boarded fences to the rear of plots and as dividing boundaries between rear gardens.
- The regular maintenance of trees and hedges to maximise natural surveillance
- Clearly defined front garden areas
- The installation of doors and windows to comply with approved document Q of the Building Regulations
- Vehicle parking should be within each the curtilage of dwellings or within the view of the car owner
- All garages should allow the parking of an average sized family vehicle
- Shed/cycle storage should be to solid silver standard
- Refuse bins should be stored within rear gardens
- Each dwellings should be fitted with an intruder alarm

West Yorkshire Fire Service – WY Fire Service were asked to review the application in June 2020 with specific regard to the proposed emergency access. They responded as follows:

The West Yorkshire Fire & Rescue Service's (WYFRS) comments on the emergency access to this proposed site are as follows:-

Minimum width of road between kerbs (m) 3.7. Minimum width of gateway (m) 3.1. Minimum carrying capacity (tonnes) 24. All access roads for WYFRS appliances should be kept clear of any obstructions. It may, however, be considered necessary to restrict unauthorised entry and either removable bollards or gate barriers are acceptable if they meet the following criteria:

They must be quickly and easily openable by WYFRS personnel. They must be only secured at one point by a padlock and chain which can be cut away by the WYFRS in an emergency.

Yorkshire Water – No objections providing separate systems for foul and surface water drainage are provided onsite and via existing sewer off site subject to the surface water discharge rate being restricted to less than five litres per second. YW confirmed in April 2020 that they had no further comments to make. They have confirmed again in January 2021 that they still have no additional comments to make.

## **9.0 MAIN ISSUES**

- Land use, sustainability and principle of development
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Flood risk and drainage issues
- Trees, landscaping and ecological considerations
- Ground conditions
- Heritage issues
- Other matters
- Representations
- Planning obligations

## **10.0 APPRAISAL**

### Land use, sustainability and the principle of development

- 10.1 Paragraph 47 of the National Planning Policy Framework (the Framework), which is a material consideration in planning decisions, confirms that planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 10.2 This approach is confirmed within Policy LP1 of the Kirklees Local Plan, which states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the Framework. Policy LP1 also clarifies that proposals that accord with the policies in the Kirklees Local Plan will be approved without delay, unless material considerations indicate otherwise.

- 10.3 Policy LP2 of the Local Plan refers to place making and advises that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Furthermore, Policy LP3 advises, amongst other matters, that development proposals will be required to reflect the Spatial Development Strategy and development will be permitted where it supports the delivery of housing in a sustainable way, taking account of matters such as the delivery of the housing requirements set out in the Plan.
- 10.4 The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.5 The application site is identified as a housing allocation (HS66) within the Kirklees Local Plan Allocations and Designations document (2019) to which full weight can be given. Based upon the net site area, it is given an indicative capacity of 70 dwellings. In this case, 67 dwellings are proposed, which would make a significant and welcomed contribution towards meeting the housing delivery targets of the Local Plan.
- 10.6 The site is Greenfield land. However, allocation of this and other Greenfield sites was based upon a rigorous borough-wide assessment of housing and other needs, as well as an analysis of available land and its suitability for housing through the Local Plan examination process. It was found to be an appropriate basis for the planning of the Borough by the Planning Inspector. Whilst the Local Plan strongly encourages the use of Brownfield land, some development on Greenfield land was demonstrated to be necessary in order to meet development needs. Furthermore, within the NPPF, the effective use of land by re-using brownfield land is encouraged but the development of Greenfield land is not precluded with the presumption in favour of sustainable development being the primary determinant.
- 10.7 The application site is in a sustainable location for residential development. It is relatively accessible and situated on the edge of an existing established settlement that is served by public transport and other facilities. Further reference to and assessment of the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations. In principle, however, the development of this site for residential use is consistent with Policies LP1, LP2 and LP3 of the KLP. It is therefore acceptable in principle subject to an assessment against all other relevant policies within the Local Plan set out below.

#### Urban design and housing density

- 10.8 The proposed 67 residential units would be laid out around a loop access road, which would connect to Granny Lane on the northern edge of the site. Of these, 31 units are proposed adjacent to the internal boundary of the access loop, and 36 are proposed adjacent to its external boundary. The latest plan submitted in December 2020 includes a small modification to the road layout to slightly widen the bend of the road at the eastern end of the site in order to satisfy the requirements of the Council's S38 Team (adoptions). This has led to very minor amendments to the position and parking arrangements of Plots 35-37.

- 10.9 Nevertheless, the new residential units would still be laid out in an appropriate arrangement, where back gardens would back onto other back gardens, existing back gardens or open land to the east and south of the site. It is considered that this layout would provide clear definition and enclosure. Consequently, ambiguous outdoor spaces would not be created and the layout provides for good natural surveillance to all areas of public realm.
- 10.10 An area of publicly-accessible open space is proposed along the site's northern edge adjacent to Granny Lane. It would be accessible to existing residents to the west, as well as to new residents. It is therefore considered to be an appropriate location as it would serve to integrate the proposed development within its surroundings. It would also help limit the visual impact of the development when seen from Granny Lane. The open space in this location would provide the wider site with a suitable entrance, which is considered important given that existing views across the site from this point on Granny Lane are of open land. Furthermore, it would reduce the impact of the development on Sheep Ings Farm and its environs, which is immediately adjacent to the site to the east.
- 10.11 Car parking has been designed into the proposals, the majority of which is located within the curtilage of individual properties. Parking spaces that are not within domestic curtilages are overlooked from adjacent residential properties allowing an adequate level of surveillance.
- 10.12 To ensure the efficient use of land, Local Plan Policy LP7 states that developments should achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities would be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or, to secure particular house types to meet local housing needs.
- 10.13 The Local Plan Site Allocation identifies the gross site area for the allocation (HS66) as 2.23 hectares. However, the net site area is recorded as 2.02 hectares. This takes account of the fact that the part of the site within Flood Zone 3 and within the HIA (Heritage Impact Assessment) area of high significance has been removed from the developable area.
- 10.14 With 67 units proposed on a site of approximately 2.23 hectares, a density of approximately 30 units per hectare would be achieved. However, this density figure is based upon the gross (red line boundary) site area. As noted above, a proportion of the site has been sacrificed to ensure dwellings are located in areas where flood risk is reduced away from the site entrance. Excluding this section of the site results in a developable area of approximately 1.93 hectares. Using this site area, the provision of 67 dwellings would equate to the density of 35 units per hectare specified (and applicable "where appropriate") in Local Plan Policy LP7. Officers therefore consider that the proposed density of development would ensure that the site is efficiently used.
- 10.15 The proposed mix of house types is considered acceptable. The development comprises 38 detached dwellings, 13 blocks of semi-detached dwellings (26 individual units) and a block of 3 town houses. These provide a range of 2, 3, 4 and 5 bedroomed properties. This is reflective of current housing in the vicinity of this site. Existing house types in the area exhibit a range of designs and it is considered that the proposed range of house types would assimilate well with those existing and are therefore considered acceptable in design terms.

10.16 The applicant proposes the use of red brick and a mixture of brick and render and grey concrete tiles across the site. Again, this reflects the variety of facing and roofing materials used in the vicinity. In light of the above assessment, it is considered that the relevant requirements of Chapter 12 of the NPPF, and Local Plan policies LP2, LP3, LP7, LP24 and LP35, would be complied with.

#### Residential amenity and quality

10.17 Local Plan Policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.

10.18 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties on Gregory Springs Road, Gregory Springs and Granny Lane and plots are oriented to ensure that direct views into habitable room windows are avoided. Levels on site are similar to those surrounding the site and it is considered that the proposed separation distances would ensure existing neighbours would not experience significant adverse effects in terms of reductions in natural light and privacy.

10.19 It should be noted, however, that whilst outlook is a material consideration relevant to this application, private views currently enjoyed by existing residents of Gregory Springs Road, Gregory Springs and Granny Lane across the green fields of the application site cannot be protected by the Council in its determination of planning applications.

10.20 The quality of the proposed residential accommodation is also a material planning consideration. Although the Government's 'Nationally Described Space Standards' (March 2015, updated 2016) are not adopted planning policy in Kirklees, they provide useful guidance, which applicants are encouraged to meet and exceed. The proposed dwellings would meet the minimum unit size figures set out in this guidance. All of the proposed houses would also benefit from dual aspect, and would be provided with satisfactory outlook, privacy and natural light. Adequate distances would be provided within the proposed development between new dwellings.

10.21 All of the proposed houses would be provided with acceptable private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Within the latest revision to the scheme, as a result of the need to create a 2-3m corridor to channel overland surface water flows on their natural route, Plots 32-36 would lose a small strip of garden. Nevertheless, these properties still benefit from external amenity space and they retain a broadly open outlook. Furthermore, an area of open space is also proposed on site next to the site's northern boundary, adjacent to Granny Lane. This would be 2350m<sup>2</sup> in size, and would include a Locally Equipped Area for Play (LEAP), which would be within 400m walking distance of all the homes it serves, It would be positioned to provide a buffer zone between it and the habitable room façade of adjacent dwellings. Further details of the LEAP would be required by condition.

10.22 In terms of noise, although residential development would increase activity and movements to and from the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.

- 10.23 A condition requiring the submission and approval of a Construction Management Plan (CMP) is proposed. The details submitted for a future discharge of condition would need to sufficiently address the potential amenity impacts of construction work at this site. Details of temporary drainage arrangements would also need to be included in the CMP.
- 10.24 With regard to the West Yorkshire Low Emission Strategy, Environmental Health Officers have recommended a condition, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies will be secured via the Section 106 agreement.
- 10.25 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protect those of existing occupiers. It would therefore comply with the objectives of Policy LP24.

#### Affordable housing

- 10.26 Local Plan Policy LP11 requires 20% of units in market housing sites to be affordable. A 54% social or affordable rent / 46% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing should be appropriately designed and located around the proposed development.
- 10.27 In this case, 13 of the proposed 67 units would be affordable. In terms of unit numbers, this represents a 20% provision, which meets the requirements of Local Plan Policy LP11, and is welcomed.
- 10.28 This proposed unit size mix (11 x 2 bed and 2 x 3 bed) would assist in meeting known housing need as set out in the 2016 Strategic Housing Market Assessment.
- 10.29 In terms of the tenure of the affordable housing units, 7 would be social rented units and 6 would be intermediate dwellings. This would deliver a 54% social: 46% intermediate in accordance with the Council's requirements, which is secured within the Section 106 agreement.
- 10.30 The proposed locations of the affordable housing units are considered acceptable, as they would be distributed around the application site. Taking all these matters into account, the proposal is therefore compliant with Policy LP11.

#### Highway and transportation issues

- 10.31 The dwellings would be served by a single access off Granny Lane which would be 5.5m in width at the junction with a 2.0m footway on either side. The estate road then remains 5.5m wide apart from a small section measuring 6.0m. The 2.0m footways continue throughout the site barring the section of shared surface to the frontages of plots 21-36 and 51-66 where a 0.6m hard margin is provided. At the newly-formed junction, appropriate visibility splays of 2.4m x 50m and 2.4m x 46m have been demonstrated.

- 10.32 In terms of traffic generation, the Transport Assessment (TA) submitted with the application (based upon 67 dwellings) offers 2 assessments. One is based on 'TRICS' figures, which is a national database of transport survey records across a wide range of land use categories. Using the 'residential – houses privately owned' land use classification, the TA identifies a trip rate of 38 two-way movements in the AM peak (10 arrivals and 28 departures) and 35 in the PM peak (24 arrivals and 11 departures). The second assessment was requested by the Council using a higher threshold of 0.8 vehicle trips per dwelling per hour. This results in 53 two-way trips in the morning and evening peak (13 arrivals and 40 departures in the morning and the opposite in the evening).
- 10.33 Using this higher figure, the TA identifies that assessments were undertaken to demonstrate the 2024 predicted peak-hour operational characteristics of junctions in the vicinity of the site. This included the Huddersfield Road/Queen Street/Station Road junction, the Huddersfield Road/Steanard Lane junction and the Steanard Lane two-way bridge, as well as the operation of the proposed site access. The analysis concludes that the proposal would not result in material impacts to the safety or operation of any of the junctions assessed and the development related trips would not have a significant impact on the operation of the local highway network.
- 10.34 The TA also included an analysis of accidents that occurred on the highway network in the vicinity of the site in the 5 years prior to January 2018. This identified 11 'Personal Injury Accidents' in this period, of which 10 were classified as slight and 1 as serious, although none were in the immediate vicinity of the site. Using Crashmap data up to 2019, this shows one incident between the junction of Gregory Springs Lane and Hopton Lane involving 2 vehicles but documented as slight in severity. The number of accidents recorded is therefore considered to be low and there is no evidence to suggest that the proposed development would unduly affect the frequency of accidents in the future.
- 10.35 Initially Officers raised concerns regarding visibility at the junction of the site with Granny Lane, off-street car parking, forward visibility on part of the estate road and anomalies in the TA. This resulted in the submission of a Technical Note (TN), which addressed the issues raised in the original consultation response. The TN provided further justification for the achievable visibility splays at the junction with Granny Lane, the proposed visitor parking arrangements and demonstrated that the levels of resident parking would be suitable for the site and consistent with other Miller Homes developments. It also provided sufficient evidence that forward visibility at points of concern on the estate road could be adequately achieved. Furthermore, it amended anomalies in the TA with regard to existing buses and trains in the vicinity of the site.
- 10.36 In this regard, it is noted that the site is accessible by means other than the private car. Mirfield Railway Station is within approximately 800m walking distance of the proposed site access. This would be circa 0.5 miles and within a 10-minute walk. Mirfield Station provides connections to Leeds, Bradford, Huddersfield, Wakefield and Dewsbury, amongst other destinations. Mirfield is due to be upgraded as part of Network Rail's Transpennine Upgrade proposals and whilst this could lead to some disruption to services in the short-term, there would be long-term benefits to future residents.

- 10.37 The site is also accessible by bus. The nearest stops are on Calder Road, which are approximately 0.3 miles (approximately 480m) from the site entrance. Whilst this would be just beyond the 'desirable' 400 metre acceptable walking distance identified in the Institute of Highways and Transportations (IHT) 'Providing for Journeys on Foot' (2000) referred to by the Transport Consultant appointed by the local residents groups, it would be approximately a 7 minute walk on a relatively level route. The bus stops would also be comfortably within the 800m acceptable distance identified in the IHT document. These are served by the 262 service (hourly, Monday – Saturday), which extends to Huddersfield Town Centre.
- 10.38 The site is also in reasonably close proximity to Mirfield Town Centre, which provides a range of services and provisions. It lies approximately 1200m from the site. Whilst this is beyond the preferred maximum of 800m identified in the IHT report above, it is still less than a mile's walk on a mostly flat route. Moreover, the IHT document recognises that acceptable" walking distances will vary between individuals and circumstances. It will depend on various factors including an individual's fitness and physical ability, encumbrances, like a shopping, pushchair, the journey purpose and personal motivation. Nevertheless, overall, the site is within an existing residential area and it is considered to be sufficiently accessible by means other than the private car and an accessible location for development. Furthermore, as part of the S106 agreement, measures to a value of £52,533.50 would be secured to encourage sustainable modes of transport. This would include £33,533.50 for bus only 'Residential Metrocards' for future residents and £10,000 for real time information display at bus stop 17564 (Calder Road/Granny Lane) as well as Travel Plan monitoring.
- 10.39 Following the previous Committee, concerns were raised by local residents' groups about the gradients of the site access. Following discussions with the Council's Highways Officers, it is understood that the junction approach gradient is likely to be 1:33. The Highways SPD allows a maximum gradient of 1:25, so 1:33 would be compliant with the SPD and the Council would have no issue with the adoption of the road at this gradient. Nevertheless, final details of site levels will be required prior to any development commencing by means of a planning condition.
- 10.40 For the reasons set out above, Officers therefore consider that subject to conditions and the planning obligations detailed in this report, the proposal would accord with Kirklees Local Plan Policies LP21 and LP22 with regard to its potential impact on the Local Highway network.

#### Flood risk and drainage issues

- 10.41 Guidance within the NPPF advises at Paragraph 163 that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This approach is reinforced in Policy LP27 of the KLP, which confirms, amongst other matters, that proposals must be supported by an appropriate site specific Flood Risk Assessment (FRA) in line with National Planning Policy. This must take account of all sources of flooding set out in the Strategic Flood Risk Assessment and demonstrate that the proposal will be safe throughout the lifetime of the development (taking account of climate change). Policy LP27 also notes that proposals for development that require a Sequential Test in accordance with national guidance will need to demonstrate that development has been directed to areas with the lowest probability of flooding, following a sequential risk based approach.

- 10.42 Policy LP28 of the KLP relates to drainage and notes a presumption for Sustainable Drainage Systems (SuDs) and also, that development will only be permitted if it can be demonstrated that the water supply and waste water infrastructure required is available, or can be co-ordinated to meet the demand generated by the new development.
- 10.43 The application site lies within Flood Zones 1 (low probability), 2 (medium probability) and 3 (high probability) as defined on the Environment Agency's Flood Zone map. The majority of the site is within Flood Zone 1, which is land having a less than 1 in 1,000 annual probability of river or sea flooding. Approximately the northern third lies within Flood Zone 2 (land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding) whilst an area around the existing entrance on Granny Lane is within Flood Zone 3 (land having a 1 in 100 or greater annual probability of river flooding). Parts of the site are also identified to be at a relatively high risk of surface water flooding.
- 10.44 The applicant has prepared a site specific Flood Risk Assessment to support the application as required by LP27. This was subject to amendments in the course of the application with the last revision submitted on 11<sup>th</sup> December 2019. The findings of the FRA are detailed below.
- 10.45 A Sequential Test is not required for this application on the grounds that the site was allocated for housing through the Local Plan process, for which a strategic flood risk assessment was undertaken (Technical Paper: Flood Risk – November 2016). This technical appraisal comprised a consideration of the site's potential flood risk issues. Whilst including some land within Flood Zones 2 and 3, it was nonetheless considered suitable for residential development and included as an allocation. This allocation was subject to thorough examination and was deemed to be sound and lawful by the Planning Inspectorate. Paragraph 162 of the Framework confirms that 'where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again'.
- 10.46 With regard to the Exception Test, this is a method to demonstrate and to help ensure that flood risk to people and property will be managed satisfactorily, whilst allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The Exception Test was applied at the Local Plan stage within the Technical Paper noted above. In respect of the site allocation at Granny Lane (Site Reference H40 at that time), it noted that an Exception Test was not required because the developable area had been reduced to remove the area at a high risk of flooding so that there would be no new housing in Flood Zone 3a.
- 10.47 It is acknowledged that Paragraph 162 of the NPPF confirms that the Exception Test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account. Neither is considered to apply in this instance, because relevant aspects of the proposal (i.e. the use of the site for residential purposes) was considered at the plan making stage as set out above. There has also been no change to the flooding risk of the site as identified on the Environment Agency's Flood Map for Planning between the adoption of the Local Plan and the consideration of this application.

10.48 Furthermore, the requirement for an Exception Test is set out in Planning Practice Guidance: Flood Risk and Coastal Change. Table 2 of the PPG outlines the flood risk vulnerability classification of specific types of development. Table 3 of the PPG then sets out flood risk and vulnerability and flood zone compatibility and clarifies when the exception test should be applied. Buildings used for 'dwellinghouses' are classed as 'more vulnerable' in Table 2 whilst amenity open space is classed as 'water-compatible development'. For more vulnerable development, no exception test is required for development falling within Flood Zones 1 and 2. So even if the Exception Test had not been previously applied, because all the housing on this site lies within Flood Zones 1 and 2, no Exception Test would be required. No Exception Test is required either for water compatible development.

10.49 It is acknowledged that a small section of the access road at the point that it adjoins Granny Lane falls within Flood Zone 3. However, Table 3 of the PPG does not categorise residential estate roads, which are, in effect, engineering operations associated with the residential development of a site. In its scale, it is not the essential infrastructure of the type which is referred to in the Planning Practice Guidance, which includes mass evacuation routes and therefore implying a significance of scale. Again, the application of the Exception Test would not be applicable.

10.50 Nevertheless, the submitted FRA does address how flood risk to people and property would be managed satisfactorily. It confirms that the site is within Flood Zones 1, 2 and 3 and considers the implications of the proposed residential development in relation to flood risk and surface water management. It determines the existing flood risk and estimates the likely impact associated with this proposal. The conclusions of the FRA can be summarised as follows:

- Dwellings are proposed in Flood Zones 1 & 2 with a minimum FFL of 45.87m AOD. This is 0.6m above the 100-year + 30% Climate Change flood level, and this would ensure that the properties remain safe during the critical flood level.
- All other sources have been reviewed and deemed a low or manageable risk. The surface water drainage hierarchy has been reviewed and a discharge to infiltration is unsuitable.
- It is proposed to discharge surface water to the public combined sewer at a rate of 5.0 l/s as agreed with Yorkshire Water.

The revised FRA has been considered by the Environment Agency, Yorkshire Water and the LLFA on three occasions, all of whom accept its findings in their latest responses and raise no objection to it subject to the imposition of relevant and appropriate conditions.

10.51 With specific regard to the intersection of the access road with Flood Zone 3 where it adjoins Granny Lane, it is acknowledged that this could lead to a situation whereby emergency vehicles trying to gain access to the site are obstructed during a severe flood event. Consequently, it is considered that an emergency access could be achieved via the public open space to the west of the access road. This lies within Flood Zone 2 and is therefore less likely to flood. The principle of this route as an emergency access has been discussed with West Yorkshire Fire and Rescue Service who raise no objection in principle subject to the access meeting minimum design specifications in terms of its

width, carrying capacity and restrictions of unauthorised entry. The open space is of a sufficient size to accommodate the required width and details of the emergency access road, including its construction to ensure a specific tonne capacity and entry points will be secured via a planning condition as set out at Section 12 of this report.

- 10.52 In response to concerns from residents in relation to the effect of the gradient of the access road on flood risk, the LLFA have advised that roads will be drained into the attenuation tank and the flow control device will slow flows down to accepted rates during storms. This will be considered as part of the detailed design of the roads through the S38 highway adoption process.
- 10.53 Turning to surface water and drainage, initially, the applicant proposed to drain surface water from the developed site to an existing water course via an underground pumping station. However, the use of a pumping station was considered to be problematic by the LLFA as, in the event of the pump failing, it could exacerbate a flooding event. Following negotiations with Yorkshire Water, the applicant now proposes to drain surface water from the site directly to the existing public sewer located within Granny Lane via a gravity fed connection. This would be subject to limiting the discharge rate to 5l/s and would therefore require a satisfactory method of attenuation. Foul water would be drained via a separate system to the public sewer. Following confirmation from Yorkshire Water, The Environment Agency and the Local Lead Flood Authority, Officers consider that this would provide a suitable drainage regime for the site and detailed site drainage measures can be adequately dealt with via the planning conditions and obligations outlined in Section 12 of this report.
- 10.54 In addition, the applicant has undertaken a recent review of drainage concerns associated with overland flows. This followed the receipt in October 2020 of a video taken in February 2020 when Storm Ciara occurred. The video provided pictorial evidence of a flow running across the site, along the track towards Granny Lane during the storm event. Following on-site investigations, the applicant prepared a Technical Note dated 21.12.2020, which confirmed that the applicant had undertaken the following:
- A topographical survey extending to the southern fields.
  - A site walkover on the southern boundary to review Valance Beck.
  - A site meeting with Kirklees Council's LLFA officer.
- 10.55 The Technical Note identifies the following issues:
- Certain areas of Valance Beck have obstructions within the watercourse, mainly in the form of fallen trees, which are reducing the capacity and resulting in flows backing up the channel.
  - Given the known downstream obstructions within the Beck, water escaping the channel at the identified location is expected, as witnessed in the February 2020, storm Ciara event.
  - The topographical survey identifies the overland flow route, which is visible in-situ on to the rear of the site. The natural channel runs along a line north, then north east before ultimately draining towards Hagg Lane before ultimately discharging to Granny Lane.

- 10.56 The Technical Note then determines that there were three primary factors that contributed to the incident during Storm Ciara and the overland flow witnessed on the site:
- Blockages in Valance Beck;
  - The intensity of the storm;
  - The unmanaged channels to the rear of the site.
- 10.57 It is proposed that this risk would be mitigated through this proposal as follows:
- The onsite channel would be extended and enlarged and incorporated into managed land rather than plot ownership so that it can be maintained in perpetuity. Therefore, a 2m-3m wide corridor would be provided to channel flows on their natural route. It would be 300mm deep on the plot side.
  - Plot finished floor levels are above existing ground levels and rear gardens fall back towards the channel, further encouraging flows on this route.
  - A financial contribution will be provided via the S106 for clearance and maintenance works on Valance Beck, to reinstate the capacity of the watercourse.
- 10.58 The Technical Note concludes that ensuring the overland flow route is formally improved and maintained and obstructions removed within Valance Beck would reduce the risk of the event witnessed in February 2020 re-occurring. Nevertheless, in the event that they did, the management of this flow route to the rear of the site would ensure flows are directed to Hagg Lane and onto Granny Lane as they were designed to historically.
- 10.59 This additional information has been reviewed by the LLFA. The LLFA advises that the Technical Note (TN) reflects their observations on the latest and previous site visits. Storms in November 2019 saw a flood route along the back of the site and Stringers Place, which was observed by the LLFA and noted in conversation with residents.
- 10.60 For February 2020 (Storm Ciara), this route was partially blocked off causing significant ponding within the red line boundary of the application site, where water reached a natural weir point and cascaded along the access route to Granny Lane. In addition to the information within the TN, the LLFA observed that there is an old access way at the corner of the field to the rear of the development site and on the northern border of Kirklees owned land, which is boarded up. A gate is now installed at a higher level in this Kirklees land. It would also appear that a small strip between the Kirklees land and the site/Stringers Place is owned and/or is a right of way/access for the owners of the land to the rear of the site. The field arrangements shown on OS maps throughout the 20th century reflects this ownership.
- 10.61 In principle, the LLFA therefore welcome the reinstatement of ditch work and the future management of the overland flow paths to the west, rather than ponding on the application site and overflowing to the north. In English Common law, a landowner must accept floodwater through his/her land. The LLFA note that it would be prudent for the landowner to the south of the site to

continue the remedial work already carried out by the owners of the development site to improve the ditch present in their land but this is not within the control of this application. The LLFA did request a detailed cross sectional design of the southern plots with rear gardens, which was subsequently provided by the applicant. However, the LLFA would like additional cross-sections and this will form a condition of this approval.

10.62 Accordingly, the LLFA continue to raise no objection to the development subject to conditions to secure a detailed drainage scheme prior to works commencing and also, a Section 106 agreement to maintain the ditching (the flow route) through a management company so that blockages to the routes are less likely to happen post development due to a stated maintenance programme that can be enforced. This would be tied into the already agreed flood route at the south west corner of the site.

10.63 The information has also been reviewed once again by the Environment Agency and Yorkshire Water. This will be the fourth time the documentation for this proposal has been considered by these external agencies. The EA raise no objection, noting that the Technical Note is concerned with drainage matters relating to Valance Beck, which is an ordinary watercourse and therefore it is a matter for the Kirklees LLFA to comment on, not the Environment Agency. However, they advise that the recommendations for mitigation measures, including long term maintenance, should be secured by a S106 agreement, or planning condition. Yorkshire Water also confirm that they have no additional comments to make on the Technical Note.

10.64 For the reasons set out above, it is considered that this proposal therefore accords with Local Plan Policies LP27 and LP28 and Section 14 of the NPPF with regard to its potential impact on local flood risk and drainage, which is considered to be acceptable subject to conditions and the requirements set out in the planning obligation.

#### Trees, landscaping and ecological considerations

10.65 The application site is previously undeveloped (Greenfield) land and comprises two pastures used for grazing. Other than grass, the pastures are largely devoid of vegetation. However, they are bounded by established hedgerows to the east, which include some self-seeded trees. A mature tree is located at the northern edge of the site. No trees within or near to the site are protected by Tree Preservation Orders. Biodiversity Opportunity Zones (Flood Plains and Pennine foothills) covers much of it. However, as the site is grassed and used for grazing, its biodiversity interest is likely to be limited.

10.66 The applicant has provided an Arboricultural Impact Assessment, which indicates that two trees and two tree groups would need to be removed to accommodate the development. The proposals would see the retention of the existing mature ash at the northern edge of the site and the existing hedge along the site's eastern boundary, as well as some vegetation along the southern boundary.

10.67 The applicant has submitted an Ecological Impact Assessment (EclA) in support of the proposed development. This concludes that the application site is of low ecological value as it primarily comprises grassland and hard standing with limited species and biodiversity could be enhanced via landscape planting as part of the development.

- 10.68 Officers considered that whilst the submitted EclA generally addressed the potential impact of the development on local ecology, the loss of existing hedgerow needed further consideration. A revised landscaping scheme to indicate additional hedge planting to the south of the development and adjacent to the public open space was therefore submitted.
- 10.69 Consequently, Officers consider that, subject to additional hedge planting being carried out in order to offset the loss of established hedges on site and the implementation of mitigation measures detailed in the EclA to be secured by condition, this proposal accords with Kirklees Local Plan policies LP33 and LP30 with regard to its potential impact on the local biodiversity.

#### Ground conditions

- 10.70 Regarding potential site contamination, the findings of the applicant's contaminated land report are, in the main, accepted. However, recommendations made in the report indicate that further intrusive site investigations should be carried out in order that the site can be fully characterised. Officers consider that conditions regarding site contamination investigation and remediation can be included on a subsequent grant of planning permission and this would be a satisfactory way of dealing with this issue.
- 10.71 Much of the site falls within the high risk area with regard to coal mining legacy issues. The applicant has provided a supporting geo-environmental assessment based on intrusive site investigations. This assessment concludes that the site is not considered to be at risk of subsidence from shallow mine workings and therefore, no mitigation measures (e.g. consolidation by drilling & grouting) would be required. This document has been reviewed by the Coal Authority and its findings accepted.
- 10.72 The application site falls within an area designed as a Mineral Safeguarded Area (sand and gravel/surface coal resource) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. The applicant has indicated that it would not be feasible to work these minerals due to the proximity of the existing dwellings, which abut the site to the east, west and south.
- 10.73 Officers consider that, whilst it is likely that sand and gravel would be present at this site, local constraints would be such that mineral extraction in this location would not be viable. It would not be possible to allow adequate stand-off areas to provide an amenity buffer between the existing residential properties surrounding this site and allow a sufficient area to work the mineral resources. Consequently officers agree with the applicant's conclusions that it would not be feasible to extract mineral from this site.
- 10.74 It is therefore considered that this proposal accords with Kirklees Local Plan Policies LP38 and LP53 with regard to potential contaminated and unstable land and minerals safeguarding issues.

## Heritage Issues

- 10.75 Whilst there are no known heritage assets within the application site itself, it is immediately adjacent to Sheep Ings Farm which is a Grade II listed building. The farm comprises a farm house and attached barn, part of which dates from the 17<sup>th</sup> century. The listing description highlights the physical attributes of the building including construction details and fenestration treatment.
- 10.76 Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. It is therefore important that any development in the vicinity respects the character and setting of this building. This approach is consistent with the objectives of Policy LP35 of the KLP.
- 10.77 The importance of this heritage asset was identified as a site specific consideration when the application site was included in the Local Plan as a housing allocation. The 'Other Site Specific Considerations' section of the Site Allocation notes that 'proposals will identify an appropriate layout, scale, appearance and materials of the proposed residential development to minimise harm to the setting of the Listed Building, taking into account the evidence presented in the Council's Heritage Impact Assessment (HIA) or any updated Heritage Impact Assessment submitted by the applicant as part of the planning application process'.
- 10.78 The Council's HIA was undertaken during the Local Plan process in response to questions raised by Historic England at that time. Paragraph 5.3 of the HIA refers to the high significance area as 'field boundaries and associated land to north of the allocated site. It noted that 'this strip of land has significance as a historic field boundary and it also provides a buffer zone between the development and the remaining land'. The HIA suggests that the loss of the area of open land identified as High Significance in the HIA would result in substantial harm and should be retained as open land.
- 10.79 The applicant has submitted a supporting Heritage Statement, which considers the historical context of the farm and the likely impacts associated with this proposal. The assessment concludes that:
- The heritage significance of the grade II listed Sheep Ings Farmhouse and Attached Barn would be preserved.
  - The heritage significance of the row of late nineteenth century cottages to the northwest of the site would also be preserved.
  - The narrow field, although lacking any particular heritage significance, would be referenced slightly by the layout of the proposed development.
  - The proposed development of the site complies with national planning policy (as outlined in the NPPF) and is in accord with the Planning (Listed Buildings and Conservation Areas) Act 1990 (section 66(1)).

- 10.80 Officers have reviewed this document and, bearing in mind a buffer would be created between the farm and the new dwellings, agree with the conclusions outlined above. In their consultation response to the application, the Council's Conservation Officer advises that the area of high significance is, in the main, retained as per the requirement of the HIA albeit that there is a settling tank and POS situated within it. It would, nonetheless, be open. The Conservation Officer notes that it is unclear that the whole of the high significance area as defined in the HIA is retained but, due to the lack of firm field boundaries on site, the actual boundary of the high significance area is difficult to assess. Nevertheless, it is determined that the premise of the high significance area is kept and there is no objection to the proposal from a heritage point of view. It is therefore considered that the proposal would preserve the setting of the listed building and would not harm its significance.
- 10.81 West Yorkshire Archaeology Advisory Service has indicated that due to previous finds in the vicinity, the site may contain unrecorded archaeological remains and has advised that an intrusive survey should be carried out to investigate this before this application is determined. However, officers consider that this matter can be satisfactorily dealt with via a planning condition which requires the completion of such a survey prior to any development commencing on site.
- 10.82 Subject to the inclusion of a condition requiring the completion of an archaeological survey, it is considered that this proposal accords with KLP Policy LP35 and Section 16 of the NPPF with regard to its impact on the historic environment.

#### Other Matters

- 10.83 Chapter 12 of the Local Plan relates to climate change and states that: "Effective spatial Planning is an important part of a successful response to climate changes as it can influence the delivery of appropriately sited green infrastructure and the emission of greenhouse gases. Planning can also help increase resilience to climate change impact through the location, mix and design of development". This is also reflected in the NPPF as a core land use Planning principle. The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. This application has been assessed taking into account the requirements summarised and provides opportunity for development that is considered to meet the dimensions of sustainable development. Furthermore encouraging the use of more sustainable methods of transport such as the inclusion of electric vehicle charging points and securing metro cards for bus travel contributes positively to the aims of climate change.
- 10.84 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to home security, rear access security and boundary treatments. All of the comments made are advisory and have been referred to the applicant. It is therefore considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24 (e).

#### Representations

- 10.85 The following is a summary response to the issues raised through the consultation process that have not been addressed within the report above:

## 10.86 Flood Risk and Drainage

-The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.

**Reason:** The site is not a flood plain in any planning context. It does not have any positive drainage nor any means to manage the discharge of water to existing water courses. The field getting wet during rain events occurs already, before and without the development. The question is whether the new development would suffer adversely from these events or can risk to it be adequately mitigated. The risk to existing houses is a separate matter outside the planning process unless the new development would make it worse. It is considered that the new development does not affect the sources of the current flooding.

- It is assumed that Miller Homes propose diverting flood water into the stream that runs through Cuckoo Hill, which joins Valance Beck half way down Hagg Lane. The resident of Boathouse Lane finds this completely unacceptable. The two streams currently carry a large amount of water at times of heavy rainfall. Any addition to this would lead to increased flooding at the junction of Hagg Lane with Granny Lane.

**Reason:** The proposed mitigation works associated with this proposal have been fully considered by the LLFA as set out in the report above.

- Water meadow does not need any housing building due to flooding and extra flooding to Ship Inn due to excess water run-off and diverted water to Hagg Lane. Plus houses on Granny Lane will suffer from more flooding. The bungalows, also on Granny Lane will get floods from river and ex water meadow. We need to stop taking low lying land that helps to limit flooding’;

**Response:** The site has been declared a ‘water meadow’ by local residents. This is not a formal designation. However, in planning terms, the site lies within Flood Zones 1, 2 and 3 and it has been assessed on this basis against both local and national planning policy.

- The Ship Inn has been flooded at least four times last year. Building on the water meadow will cause more problems for the Ship Inn and the access road from Granny Lane.

**Response:** The Ship Inn lies within Flood Zone 3 and it is therefore identified to be at a high risk of flooding. However, within this application, no houses would be constructed in Flood Zone 3; rather, they would be sited in either Flood Zones 1 or 2 and their finished floor levels would be designed to take account of that location.

- It is contemptuous for any developer/consultant to ignore local educated knowledge. The amended details skirt around the issues of safety and flooding and do not give a substantive or adequate solution for either. The proposed diversion of surface water via a gully dug out at the rear of the development to be distributed onto Hagg Lane does not in any way alter the fact that surface water flooding will occur. All this amendment does is take it away from the new homes to worsen the flooding of existing homes.

**Response:** No evidence has been submitted to justify the assertion that this application will worsen flooding of existing homes. Rather, the proposed mitigation works associated with this proposal have been fully considered by the EA and the LLFA as set out in the report above.

- The field currently slows the water entering the river and is a natural flood defence if anything trees should be planted to stem this flow further.

**Response:** As set out above, the site is not a designated flood plain. It is an undeveloped field. This would change post development when a positive drainage system is introduced and off-site improvements made.

- 'The mitigation and dismissal of the flooding that has happened frequently in this area is poor at best. The plan to move water elsewhere is not a viable solution and the use of the storm as though it was an "exceptional event" is absurd'.

**Response:** As above, as a result of this development, a positive drainage system would be introduced on the field and off-site improvements made. The drainage solutions for the site have been carefully considered by the LLFA and deemed to be acceptable in principle for the reasons set out in the report.

- There is no scientific solution, no calculations of water volumes or how they will increase by the removal of trees and what the consequences are for areas down stream.

**Response:** It is unclear what is meant by a scientific solution. With regard to calculations, micro-drainage calculations would be required by condition for tank sizing and would be published on the Council's website as a result.

- The site regularly floods and acts as a flood plain which acts to store flood water and allow it to slowly discharge to existing water courses. Developing this site would therefore increase flood risk in the area.

**Response:** It is considered that the proposed surface water drainage regime at the site would be capable of dealing with surface water generated during flood conditions and would not result in local flood risk being increased.

- The river regularly floods and any occupants of these proposed development would be put at risk.

**Response:** The majority of the residential properties would be located in Flood Zone 1 with the remainder falling within Flood Zone 2. Consequently the risk of these properties flooding is reduced. The Environment Agency has requested that the floor level of all residential properties be sited above 45.87 A.O.D to mitigate any impact associated with flooding in the area and to take climate change into account.

- Concern that comments from Yorkshire Water are based on surface water being drained to an existing water course and this has now changed.

**Response:** Following amendments to surface water drainage proposals, Yorkshire Water have been re-consulted. YW confirm that subject to the planning conditions outlined in Section 12 of this report, the proposed arrangements are acceptable.

- Concern that the sewer which would be used to drain surface water may not have adequate capacity.

**Response:** Yorkshire Water have indicated that subject to flow rates being reduced to 5l/s, the existing sewer is adequate to drain the site.

- The site entrance is located within Flood Zone 3 but the supporting Flood risk Assessment indicates it is located within Flood Zone 2.

**Response:** This matter has been addressed in the Flood Risk and drainage section of this report.

- Concern that the proposed surface water drainage channel on the southern boundary of the site would lead to flooding of existing properties to the south as the site is not suitable for a SuDs system.

**Response:** The proposed surface water drainage channel is designed to direct any flood water that accumulates adjacent to this part of the site towards the site. The water can then be drained via the site's surface water drainage regime. Additionally, the S106 includes a £3000 financial contribution towards the future upgrade of a piped watercourse at the southern end of the site.

- Concern that the surface water drainage channel should not be maintained by a private management company as maintenance may not be carried out.

**Response:** The use of private management companies to maintain areas such as public open space and surface water drainage regimes is not unusual. It is proposed to secure this method of maintenance via the Section 106 agreement.

- How has the £3000 requested to contribute towards the potential upgrade of the off-site water course been calculated.

**Response:** This contribution has been requested by the Lead Local Flood Authority as a proportionate figure to potentially fund such works should they be needed in the future. This figure has now been increased to a total of £8K in total.

- A sequential test has not been applied with regard to flood risk in connection with this proposal as required by the National Planning Policy framework and the Exception test has not been applied with regard to the use of this site for housing within a flood risk area.

**Response:** These matters are addressed in the report above.

- The proposed surface water attenuation tank may not be adequate to deal with surface water drainage from the site therefore exacerbating flood risk.

**Response:** Following consultation with relevant consultees it is considered that the proposed surface water drainage regime is satisfactory for this development. It is proposed to require full technical details of the drainage scheme via planning condition prior to development commencing.

- The proposed attenuation tank associated with the surface water drainage regime for the site could be damaged if emergency vehicles use the proposed emergency access.

**Response:** The condition pursuant to the attenuation tank requires its design to take into account the emergency access above. These details will be secured by condition.

A technical appraisal prepared by KRS on behalf of an objectors group of the applicant's supporting Flood Risk Assessment was submitted identifying 32 objections relating to this proposal with regard to its potential impact on Flood Risk. A full copy of the document can be viewed on the Council's website (Comment section received 16 December 2019 id 785061) with the main issues summarised and addressed below. The report was sent to both the applicant and the LLFA for comment, with the main points summarised below:

- Do not believe an appropriate assessment of flood risk has been undertaken with regard to historic flood events (including those in December 2015 and November 2019).

**Response:** The FRA has been considered by both Council Officers and the Environment Agency, who are in agreement with its findings. Moreover, the LLFA also comment that the report includes a selection of various pictures of flooding, which confirm the LLFA's understanding of the situation at Granny Lane. The LLFA further note that Kirklees has a pool of information to draw on from its databases, for example, EA flooding outlines for December 2015, and flooding reports to the Council. They confirm that these have been taken into account in their discussions with the applicant even if they have not been presented within the FRA.

- Without incorporating all this data, do not believe that consultation was appropriately undertaken with the EA, Kirklees Council and local residents.

**Response:** The applicant has advised that all publicly available photos and videos demonstrate that the EA modelling is accurate. They have also commented that not all discussions/meetings with EA/LA were included within the EA and only relevant information was incorporated, as is the normal case for such documents. Once again, the FRA has been found acceptable by both Council Officers and the Environment Agency.

- The omission of the above local data from the FRA does not adequately equip Kirklees Council (or any of their consultees) to give appropriate considerations to local flood risks as required by NPPF. No evidence that the LLFA have been consulted to inform and assist the FRA.

**Response:** It is the Environment Agency who, as statutory consultees, comment on aspects of main river flooding rather than the LLFA and the EA have no objection to the FRA subject to conditions. Furthermore, the LLFA have confirmed that Kirklees has a pool of information to draw on from its databases, for example, EA flooding outlines for December 2015, and flooding reports to the Council. The LLFA confirm that these have been taken into account.

- The FRA demonstrates the presence of watercourses within the vicinity of the site which may pose a fluvial flood risk to the site. The FRA does not undertake a detailed assessment of fluvial flood risk posed to the site for the lifetime of the development.

**Response:** The applicant confirms that topography has been reviewed along with known physical features documented within the FRA and agreed with the LLFA. As the flows would not discharge towards the river, site mitigation would not be required.

- The FRA does not undertake a detailed assessment of surface water flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

**Response:** Within the FRA, the surface water has been reviewed against the topography as noted above.

- The FRA does not undertake a detailed assessment of reservoir flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

**Response:** It is the case that on the Government's Flood Risk maps, the northern part of the site is identified to be at risk of flooding from reservoirs in the area. However, it also notes that flooding from reservoirs is extremely

unlikely. An area is considered at risk if peoples' lives could be threatened by an uncontrolled release of water from a reservoir. The applicant has advised that in their discussions with the EA, reservoir flooding was not identified as a risk. Furthermore, the EA have raised no objection to the development subject to a planning condition and it is their responsibility to manage the risk of flooding from main rivers and reservoirs. Lead local flood authorities (LLFAs) are responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses.

- The FRA does not undertake a detailed assessment of the manhole and culvert flood risk posed to the site for the lifetime of the development (i.e. the next 100 years).

**Response:** The applicant has advised that the culvert does not flow towards the site. The route of flows have been confirmed based on the incident in November with the flow rate maintained as agreed with the LLFA.

- An assessment of the impact of climate change has not been included.

**Response:** Climate change is calculated in agreement with the EA. The FRA includes a recommendation that Finished Floor Levels are raised 600mm above the 100- year plus 30% climate change event, which is a demonstration that climate change has been considered.

- The measures proposed by the FRA to avoid, manage and mitigate flood risk have not been appropriately secured for the lifetime of the development (this section refers back to paragraph 38 of the NPPF in relation to flood defence infrastructure)

**Response:** Surface Water Drainage corridors with a management company to maintain it as agreed with LLFA would be secured through the S106 Legal Agreement.

- The effect of the development on flood risk has not been assessed

**Response:** The FRA assesses the effect of the development on flood risk, which has been deemed acceptable by the EA subject to a condition relating to FFL and no level changes within the POS in Flood Zone 3.

- A detailed drainage scheme has not been submitted as part of the planning application.

**Response:** A detailed drainage scheme will be required by condition. This approach accords with National Planning Practice Guidance, which confirms that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. It further states that it is important to ensure that conditions are tailored to tackle specific problems, such as a detailed drainage scheme.

- The surface water drainage strategy is inadequate for the proposed development

**Response:** The LLFA has found the principle to be acceptable subject to conditions. Moreover, the LLFA comment that the KRS report does not go into detail regarding the source of surface water flooding. Furthermore, it does not take into account how an undeveloped field does and does not drain, or the source of flowing water to the south, or how this would change post development when a positive drainage system is introduced and off-site improvements made. The LLFA comment that they do appreciate that there may be an expectation that a document such as the FRA may wish to make

such conclusions as visible as possible. Nevertheless, the LLFA confirm that they discussed at length the local issues with the developer and they endeavoured to provide a clear synopsis around their recommendation and a more detailed response on specific issues, which benefits consultants where amendments are required and transparency to other interested parties. To that effect, the LLFA remain of the view that surface water issues and concepts have been addressed to a satisfactory level with, as is usual, minor changes to be monitored through the use of conditions.

- Appropriate proposed minimum operation standards have not been proposed within the FRA and evidence to support this has not been presented within the FRA.

**Response:** The LLFA have considered the proposals and consider them to be acceptable subject to conditions and arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals within the S106 Agreement.

- SuDS have not been assessed correctly and should be incorporated into the proposed site layout.

**Response:** The LLFA confirmed in their consultation response that LPA has an obligation to ensure SUDS are maintained and managed for the lifetime of the site. The use of a management company, secured under section 106, is the accepted Kirklees approach. All obligations can be discharged upon adoption by Yorkshire Water.

- No maintenance arrangements for the surface water drainage.

**Response:** As above.

- No maintenance arrangements are proposed to ensure an acceptable standard of operation for the lifetime of the development

**Response:** As above.

- The FRA proposes the use of storage tank to attenuate the surface water runoff from the site. None of the above will provide multifunctional benefits.

**Response:** The guidance within the NPPF advises that sustainable drainage systems should, *where possible*, provide multi-functional benefits. In any event, in this case, there will be an area of POS above the storage tank, which could be considered a multi-functional benefit.

- The exceedance routes have not been assessed.

**Response:** Exceedance routes are shown within Appendix K of the FRA. Moreover, whilst the consultant employed by the residents' groups may disagree with the findings of the FRA, it has been found to be acceptable by technical experts both at the LLFA and the EA. The LLFA also confirm that exceedance events have been considered for surface water. The tank cover levels are lower and to the north of all the new properties. Where knowledge tells us the LLFA that a problem from the south affects the site, monies have been secured to carry out repairs to a system on 3rd party land. As a belt and bases approach, a channel has been lowered between houses to let water safely through the estate should this occur in the future.

- The voluntary and free movement of people during a 'design flood' has not been demonstrated in the FRA as required by Paragraph 39 of the NPPF.

**Response:** Paragraphs 39 and 40 of the PPG are written under a sub-heading of 'Developers to demonstrate that development will be safe to satisfy

the second part of the Exception Test'. As set out in the report, an Exception Test is not required in this instance nor does the PPG state that this must be demonstrated in an FRA. However, the PPG does state that vehicular access to allow emergency services to safely reach the development during design flood conditions will also normally be required. The proposal includes an emergency access as detailed in the report. This would also provide a means for pedestrians and cyclists to access/egress the site safely in flood conditions.

- Vehicular access to allow the emergency services to safely reach the development during design flood conditions has not been adequately demonstrated in the FRA.

**Response:** Paragraph 39 of the PPG does not say that it must be demonstrated in the FRA. The emergency access is, however, addressed in the report above.

- Safe access routes during design flood conditions has not been demonstrated in the FRA in accordance with Paragraph 40 of the NPPF.

**Response:** As above.

- The additional burden on the emergency services in a flood event has not been given due consideration in the FRA in accordance with Paragraph 58 of the NPPF and there is no evidence of consultation with either the Emergency Planning departments, Emergency Services or Local Resilience Forum as recommended in NPPF.

**Response:** Consultation with West Yorkshire Fire Service is summarised in Section 8.0 above.

- The Sequential Test has not been passed.

**Response:** This is addressed in the report above.

- The Exception Test has not been passed

**Response:** This is addressed in the report above.

- Why were the matters contained in the latest Flood Technical assessment not considered at the outset? Why has it take a year and a half of extreme pressure and campaigning by the Granny Lane Action Group to have the flooding position considered more carefully? What was seen in the video taken during Storm Ciara is not a one off incident – it happens every time there is significant rainfall.

**Response:** The consideration of flood risk and drainage matters as part of this application has had regard to the requirements of both national and local planning policy and guidance. It has not a question of being considered more carefully as a result of local campaigning but the Council have endeavoured to listen and respond specifically to the views expressed by local residents. Storms in November 2019 saw the flood route along the back of the site and Stringers Place observed by the LLFA and in conversation with residents. For February 2020 (Storm Ciara), this route was partially blocked off causing significant ponding within the red line boundary, where water reached a natural weir point and cascaded along the access route to Granny Lane. The latest scheme seeks to mitigate that situation.

- There is suggestion in the report by RWO and the LLFA's report that the widening and maintaining of ditching to the rear of the plots affected will 'reduce the risk of the event witnessed in February 2020 re-occurring'. Note that the risk will be reduced and not removed.

**Response:** As above. The proposed mitigation will mean that surface water will not follow this route as it has done in the past.

By moving and altering water course you are protecting new builds at the sacrifice of existing houses which goes against the Local Government duty of care to protect existing homes from flooding.

**Response:** This is an opinion rather than an evidenced statement. The development cannot resolve all existing flooding problems but it should not make it worse. It is the Council's opinion that it would not, for the reasons set out in this report.

It is believed that the applicant's intention is to direct sewerage and rainwater from the site into a holding tank underneath the green area by Granny Lane from where it would be pumped into the main sewer under Granny Lane; if the pump fails or if the increased rainfalls predicted overwhelm it then the tank will overflow onto Granny Lane and threaten the houses opposite with flooding.

**Response:** The FRA is clear that r, following discussion with the LLFA and Yorkshire water it has been agreed a discharge rate of 5 l/s can be utilised to the public sewer to avoid the need for a surface water pumping station.

#### 10.87 Highways and Transport

- The proposal would lead to extra traffic which would detrimentally affect highway safety as Granny Lane and Steanard Lane are not adequate to deal with existing levels of traffic. Objectors have commissioned a traffic assessment to support this view a copy of which was passed to the Council's Highway Development Management Team for their consideration.

**Response:** This matter has been considered in the "Highways and transportation issues" section of this report

- Existing footways on Granny Lane and Steanard Lane are inadequate and additional traffic would increase the risk of pedestrians being injured.

**Response:** Whilst it is acknowledged that existing arrangements are limited, it is considered that they are sufficient to accommodate the additional traffic associated with this development.

- Existing transport infrastructure in this area would not be able to cope with the additional people associated with this development.

**Response:** This matter has been considered in the "Highways and transportation issues" section of this report

#### 10.88 Wildlife/Environmental

- The proposal would have detrimental effect on local wildlife.

**Response:** This matter has been considered in the "Trees, landscaping and ecological considerations" section of this report

- The proposal would result in the loss of existing hedges which provide significant wildlife habitat.

**Response:** This matter has been considered in the "Trees, landscaping and ecological considerations" section of this report"

- This development would result in the loss of Green belt.

**Response:** The site does not fall within the Green belt.

- The loss of trees associated with this development is unacceptable.

**Response:** This matter has been considered in the “Trees, landscaping and ecological considerations” section of this report.

- Trees and bushes have already been removed from the site without consent.

**Response:** There are no Tree Preservation Orders affecting this site. Consequently the past removal of trees and shrubs would not have required consent from the Council.

#### 10.89 Heritage

- The development would have a detrimental impact on Sheep Ings farm which is a grade II listed building.

**Response:** This matter has been considered in the “Heritage Issues” section of this report.

- The field where development would take place is an archaeological site.

**Response:** This matter has been considered in the “Heritage Issues” section of this report.

#### 10.90 Local Amenity

- Allowing a further 67 dwellings in the area would lead to additional noise and air pollution.

**Response:** These matters have been considered in the ‘residential amenity and quality’ section of this report.

- The development of the site would result in a loss of privacy for existing residents.

**Response:** It is considered that the temporary compound and parking arrangement arrangements are unlikely to lead to significant problems with regard to the privacy of existing residents. However, the use of temporary screen fencing could mitigate any impact.

- There is no capacity at existing schools and doctor’s surgeries to deal with his number of additional residents bearing in mind the number of other developments taking place in the area.

**Response:** There is no Policy or supplementary planning guidance requiring a proposed development to contribute to local health services. However, Kirklees Local Plan Policy LP49 identifies that Educational and Health impacts are an important consideration and that the impact on health services is a material consideration. As part of the Local Plan Evidence base, a study into infrastructure has been undertaken (Kirklees Local Plan, Infrastructure Delivery Plan 2015). It acknowledges that funding for GP provision is based on the number of patients registered at a particular practice and is also weighted based on levels of deprivation and aging population. Therefore, whether additional funding would be provided for health care is based on any increase in registrations at a practice. Long-term funding of health facilities is being considered as part of the Local Plan via Community Infrastructure Levy (CIL). With regard to schools, it is considered that primary provision is adequate and a financial contribution is secured towards secondary provision.

- The proposed location of the temporary compounds on site are unacceptable as they would lead to a loss of privacy for existing residents.

**Response:** It is considered that the temporary compound and parking arrangement arrangements are unlikely to lead to significant problems with regard to the privacy of existing residents. However, the use of temporary screen fencing could mitigate any impact.

#### 10.91 Miscellaneous

- Developing this land would affect existing house prices in the area.

**Response:** The effect that new development has on existing property values is not a material Planning consideration and cannot therefore affect the assessment of this proposal/

- There are plenty of brownfield sites which should be developed before this site and this approach is encouraged by government.

**Response:** Whilst Government Policy is to seek to develop Brownfield sites ahead of Greenfield Sites, it is recognised that Greenfield sites would also be required to deliver the country's housing needs.

- Coal mining has historically taken place in this area and houses built on this site may therefore be susceptible to subsidence.

**Response:** This matter has been considered in the "Ground conditions" section of this report.

- The development of this site is over development designed to maximise the profits of the developer.

**Response:** This site is an allocated housing site in the Local Plan which has an estimated capacity of 70 dwellings. This proposal seeks permission for 67 dwellings, which is considered to be appropriate bearing in mind the area of land that must be left undeveloped to address flood risk concerns.

- Previous planning applications to build on this site have been refused.

**Response:** A previous planning refusal does not set a precedent. Each planning application must be considered on its own merits and in this case it is considered that the proposal is acceptable for the reasons outlined in this report.

- The proposed houses are not in keeping with those existing in the area.

**Response:** This matter has been considered in the "Urban design" section of this report.

- The proposal does not include any significant measures to mitigate impacts on climate change.

**Response:** This matter has been considered in the "Other Matters" section of this report.

- Banners and posters placed at the site by objectors have been removed without their consent.

**Response:** This issue is not a material Planning consideration and would be a matter for the interested parties to resolve.

- A concern that Officers had pre-determined the proposal before its report to the 19<sup>th</sup> December Committee because the recommendation indicated in the Committee Report was to delegate back to Officers to approve subject to the resolution of a Section 106 agreement and relevant Planning conditions, yet a further consultation period relating to amended information received did not expire until 16 December 2019.

**Response:** As stated within the update to the 16 December 2019 Planning Committee, there is a requirement to prepare Committee reports in advance of committee in order that it can be published on the Council's website. At the time the final publication draft was prepared, Officers considered that all relevant matters had been satisfactorily resolved. If issues arise via the consultation exercise, between the publication of the committee report and the committee meeting, this is reported to Members in a committee update and any change to the officer recommendation can be amended if required. Officers consider that the consultation exercise carried out last December was proportionate and that that additional comments were reported to Members at that time. Finally, the determination of the application is made by members; officers recommend only.

- The detailed report commissioned by GLAGG pursuant to the submitted FRA was not properly considered nor the significance of its findings conveyed to the Planning Committee.

**Response:** This is address above.

- The significance of the implications arising from the position of the site access within Flood Zone 3 was not conveyed to the 19<sup>th</sup> December 2020 Committee.

**Response:** Members were made aware of the KRS report within the Committee update report, where it was clarified that it had been passed to both the LLFA and the applicant upon receipt. This matter is addressed further in the report above.

- Queries why the applicant was not required to correct the FRA in relation to part of the site access being within Flood Zone when they were told about it in October 2019 and details of the emergency access should be required as a consequence.

**Response:** The Council have previously acknowledged that the application erroneously indicated that the only part of the site falling within Flood Zone 3 was the Public Open Space (POS) when in fact part of the proposed access road also lies within Flood Zone 3. Furthermore, this matter was drawn to the attention of the members of the 19<sup>th</sup> December 2019 Strategic Committee in paragraph 10.43 of the committee report and the associated Committee Update. Details of the emergency access can reasonably be required by planning condition as set out in this report.

- Page 21 of the KRS report states that there is no route available for access to the west of the site. This alone should, in the residents' view, make the site untenable now given that the entrance is in Flood Zone 3;

**Response:** There is sufficient space within the POS to the west of the access road to provide an emergency access as detailed in the report above. Details of the emergency access route will be secured by planning condition.

- The Council have advised that finished levels of the site entrance will be raised but consider that it would not be significant. The consultant for GLAAG and Save Mirfield has looked at the contours and approximated this to actually be 1:35 at this point. They query why the Environment Agency was not made aware of this as their condition was no elevation of ground levels in Flood Zone 3?

**Response:** The EA confirmed in their consultation response dated 21<sup>st</sup> April 2020 that they had updated their comments to take account of the latest version of the FRA (Version 7 dated 10.12.2019) and they still had no objections subject to the imposition of a condition in relation to finished floor levels and no raising of ground levels in the area of public open space (POS) located within the Flood Zone 3. They note that the proposed site access route is located within the extent of flood zone 3 and the EA were aware that the LPA had referred to land raising of the access road in Flood Zone 3, stating "Whilst it is acknowledged that the finished levels of that part of the access falling within Flood Zone 3 would be raised slightly, these would not be significant". On this basis, the EA were satisfied that this minimal amount of land raising should not have any adverse impact on flooding to the site or elsewhere and have no objection to this. Whilst it is acknowledged that the consultation employed by GLAAG and Save Mirfield has looked at the contours and approximated the gradient of the access road to be 1:35, it is noted that this is an approximation. The Granny Lane site is not as topographically challenge as other site allocations within Kirklees and it is still considered that the finished levels of the part of the access falling within Flood Zone 3 would only be raised slightly. In any event, finished site levels are subject to a planning condition and the Council has confirmed that in this instance, they are willing to advise the established residents groups (GLAAG and Save Mirfield) when the details of these conditions are submitted to give them the opportunity to view the technical data.

- Query over the proposed method of drainage and any potential shortfall.

**Response:** A satisfactory drainage method has been submitted in principle, the details of which will be secured by condition.

- Consider that drainage should be approved prior to any decision making and not a condition;

**Response:** This is addressed in the report above.

- A concern that if Yorkshire Water (YW) cannot guarantee that if sewerage levels raise that foul effluent will not run back into the storage tank. (Note: It is understood that this comment arises from a response made to GLAAG from Yorkshire Water, which stated that the backflow of foul water into the attenuation tank would need to be discussed with the developer on how he will stop this happening.

**Response:** Yorkshire Water raise no objection to the proposal. Furthermore, in the response from YW to GLAAG, YW note that for adoption purposes *if* this was felt to be an issue it would be addressed by YW for additional protection measures with the developer before an adoption agreement was reached.

- Assuming that the storage tank will be underground, with the land above it need to be raised?

**Response:** It is considered that land levels will not need to be raised by final ground levels will be secured by means of a planning condition.

- The large amount of deforestation on Hagg Lane, alongside Valance and Liley Clough Becks raises questions about the currency and accuracy of the Flood Risk Assessment.

**Response:** No evidence is provided as to why the deforestation on Hagg Lane should bring the accuracy of the entire FRA into question. The removal of trees in this area would represent a very small part of the flood catchment into Valance Beck and the FRA did assess overland flood routes in the event of water escaping from the Valance Beck in consultation with the LLFA.

- Still maintain that the Sequential Test has not been passed and requested evidence that to clarify why the Exception Test was not necessary;

**Response:** This is addressed at Paragraphs 10.42 and 10.43 of this report.

- Do not believe the emergency route has been assessed as to its suitability to accommodate emergency vehicles such as Fire Engines, Ambulances or Police vans, particularly as they would be driven over the roof of the attenuation tank.

**Response:** This is addressed at Paragraph 10.46.

- Ground levels at the main site access/egress have been raised. This was in contravention of the EA's original conditions.

**Response:** This is addressed at (x) above.

- The emergency access road is just a few yards away from Flood Zone 3 and its proposed route takes it perilously close to Flood Zone 3.

**Response:** For the purposes of assessing a planning application in accordance with National and Local Planning Policy, the emergency access road lies within Flood Zone 2 and not Flood Zone 3.

- What calculations regarding this have been made to plan for climate change?

**Response:** Climate change is calculated in agreement with the EA. The FRA includes a recommendation that Finished Floor Levels are raised 600mm above the 100- year plus 30% climate change event.

- The elevations of the roads and development worry the residents. The concern is that water flows downhill and the velocity of flow depends not only on the rainfall but also on the slope of hard surfaces. Consider that the additional problem of the steeper gradient at the emergency access should be drawn to the attention of the LLFA, Highways and the Environment Agency.

**Response:** The LLFA confirm that roads will be drained into the attenuation tank and the flow control device will slow flows down to accepted rates during storms. These details will be secured by condition.

- The Council have acted illegally in allowing a development contravening its Local Plan.

**Response:** This report sets out the Council's assessment of the proposal against relevant policies in the Local Plan.

- The Council was negligent in allowing the development in non-developable areas.

**Response:** If the Council have understood GLAAG and Save Mirfield correctly, it is their assertion that the Council have recommended approval for development (POS and road infrastructure) in non-developable areas. It appears that they have assumed the definition of a non-developable area to

mean an area where 'development' is not permitted in the Local Plan. On this site, this would mean the area within Flood Zone 3 and the HIA (heritage) area of high significance. The Allocations and Designations document (February 2019) does identify the gross site area for the allocation (HS66) as 2.23 hectares with the net site area being 2.02 hectares, taking into account the flood zone and HIA, which are thereby removed from the 'developable area'. However, there is no definition of 'developable' and 'non-developable' within the Local Plan. The net and gross site areas for residential sites are identified within the Site Allocations document in order to assign a realistic housing capacity to them. This is based upon the developable area and excludes the non-developable area. The HS66 Site Allocation does not state that there can be no development within the non-developable area nor does it preclude the inclusion of non-developable areas within the red line boundary of a planning application. Read as a whole, the Site Allocation document refers to various constraints and site specific considerations for HS66. These include the proximity of the site to Listed Buildings and that part of it lies within Flood Zone 3 where it confirms 'no residential development to take place in Flood Zone 3'. The issue of the HIA area of high significance is addressed above but in summary, within this proposal it is POS/highway and therefore, it is sufficiently retained as open land in compliance with the identified constraint. The planning application is also compliant with regard to flood risk as no houses are proposed within Flood Zone 3. Consequently, whilst the road infrastructure and POS constitute development, the Local Plan does not prohibit these from the non-developable area for the reasons stated above.

- The Council failed to advise the applicant in its pre-application advice on specific limitations on the site imposed in the Local Plan, with particular regard to the point about 'developable' and 'non-developable'.

**Response:** The pre-application letter is clear that no residential development should take place in Flood Zone 3 and that the site is close to Listed Buildings. These limitations were subsequently identified as the constraints within the Adopted Local Plan. Proximity to listed buildings and Flood Zone 3 are both material considerations telling against development in national policy, irrespective of the Local Plan policy. The pre-application letter clearly advises on both points.

- The Council allowed errors to persist (such as the applicant stating the entrance is in Flood Zone 2 when it is in Flood Zone 3) and took no action to correct them.

**Response:** This is addressed above.

- The Council failed to protect the area deemed to be of high significance in the Council's own heritage impact assessment.

**Response:** This is addressed in the heritage section of the report.

- The Council unilaterally closed the public consultation period and prepared its final advice to the planning committee four days early.

**Response:** This is addressed at Paragraph 7.2.

- The update report to the last Committee was dismissive of additional matters raised.

**Response:** It is standard practice for a Council to prepare a Committee Update report to address any matters that have emerged between the publication of the Committee Report and the day of the Planning Committee. Late representations to applications are common and the Update report

process allowed the Committee to be informed of such representations and in this respect, it was neither unusual nor untoward.

- The advice to the planning committee, and on which it made its deliberations on 19th December 2020, was biased in favour of the applicant and throughout the planning process, the Council went out of its way to assist the applicant.

**Response:** This is an opinion on the Council's handling of the application rather than a matter to be addressed.

- Planning conditions are proposed for matters such as the emergency access which is contrary to all accepted planning practice.

**Response:** National Planning Practice Guidance confirms that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. It further states that it is important to ensure that conditions are tailored to tackle specific problems, which in this particular example, is the details of the emergency access.

10.92 In response to the main points set out in letters received from GLAAG, Save Mirfield and their Solicitor to the latest round of public consultation in December 2020/January 2021, the following is advised:

- The ill designed proposal does nothing to mitigate the flood risk. In fact this will serve to exacerbate the flooding on Hagg Lane and Granny Lane.

**Response:** This is a point of view. As set out in the report, it is considered that the proposal does sufficiently mitigate against flood risk and will not exacerbate existing flooding on Hagg Lane and Granny Lane.

- Assume that this change to the discharge of flood water will be discussed with Yorkshire Water, the Environment Agency and Highways due to the proposed addition of an unpredictable and uncalculated volume flow of overland water directly onto the junction of 2 highways.

**Response:** All the above consultees have been consulted as set out in the report.

- The LLFA noted on a site visit that the homes across the road from the site should never have been built. Given that these are 90 years old suggests that the effect of climate change is all too evident. To say that they would never get planning permission now, whilst across the road there are 67 homes being considered on an ancient flood plain/water meadow, demonstrates that the effects of climate change on our community is of little consequence to the planning department.

**Response:** The point being made by the LLFA is that the homes across the road from the site lie within Flood Zone 3. Under current national and local planning policy, more vulnerable development such as dwellinghouses would be subject to a Sequential and Exception Test if it were to be built within Flood Zone 3a and would not be appropriate within Flood Zone 3b. However, the dwellinghouses within the application site would not lie within Flood Zone 3 but would be within Flood Zones 1 and 2, which Government Guidance confirms to be appropriate in terms of its vulnerability classification.

- It is vital to carry out the Exception Test, which must demonstrate benefit to the community for the lifetime of the development (NPPF). Without this test how can the Council be fully confident that all homes within the vicinity, that is Granny Lane, Gregory Springs Road, Gregory Springs Mount, Gregory Springs Lane and Hagg Lane will benefit from the development in the long term?

**Response:** The need for the Exception Test has been considered fully in the report above.

- Taking into consideration the flood behind Gregory Springs Mount which enters gardens there, and for which there is some conflict as to the origin, land ownership and responsibility, coupled with the vague calculation of the proposed storage tank and hydro brake to adequately compensate for the loss of the natural surface storage area, without the back up of 2 sewage, these factors remain a serious concern. The health and safety of all residents should be a priority.

**Response:** The broken land drainage system has been observed to the rear of Gregory Springs and money is available to improve this. It may, of course, happen again and mitigation has been made in the layout design should this occur. The LLFA are clear that the new estate will not make this worse for the experiences of the existing houses.

- The LLFA has circulated information to Councillors about the poor state of the drainage systems on Hagg and Granny Lane. Since this is a known high risk flood area, surely such a survey should have been carried out prior to the original submission of the application to the Committee?

**Response:** The road drainage on Hagg Lane does not affect the new development site. It was reported to the LLFA that some gullies were blocked. This was investigated and highways were asked to clean them out as the LLFA would for any observation on the highway network anywhere in the district. On cleaning these out, some were found to be poor runners or non-runners, which means there may be a blockage in pipework, a collapse or that another service, such as gas or cable has interfered with the system at some point. As highways have found this, they will create a job for further exploration to rectify the problem. This is a process. It would be followed regardless of the development. All the drainage from the site is independent from this gullies and downstream pipework.

- Council Officers have met the landowner and Miller Homes on site. It is considered that everything is being done to support Miller Homes. It is noted that it is not unusual practice to meet with interested parties but the LLFA showed some reluctance to meet other members of the community- not exactly an even-handed approach when he claims to be "independent".

**Response:** It is the role of Council Officers to consider the planning applications before them, which may quite appropriately include meeting with the applicant on-site to discuss specific matters. Officers from both Planning and the LLFA have also met and spoken with the residents/landowners around the site. The imputation that the LLFA is not independent and may therefore be biased towards the developer is a serious accusation. It is anticipated that will be responded to outside of the planning process.

- The photograph captioned 'Section of channel to rear of existing development' is of interest. This channel was hastily dug recently by the landowner and was not remedial work on an historical channel that has been used in the past as stated in the LLFA report dated January 4th. Perhaps the LLFA suggested it to the landowner as he did discuss this at the meeting.

**Response:** The LLFA advise that there is a dug channel at the corner of the land, which the LLFA were unaware of prior to our meeting. The author of the letter therefore assumes incorrectly.

It is understood that the landowner/applicant is proposing to dig out some blocked drainage further along the site and 'reinstate' a previous drainage route. Not only does this previous drainage route not exist to our clients' knowledge and so, a new route is proposed which has not been assessed as to its suitability and impact on the Site and surrounding area, but if used it will result in the drainage being discharged into the road at the junction of Granny Lane and Hagg Lane. No assessment has been undertaken of this proposed new route or of the ability of the junction of Granny Lane and Hagg Lane to cope with the resultant drainage discharge. Furthermore, at a meeting with local residents on 2 October 2020, Mr Paul Farndale stated that no matter what was proposed, betterment could not be achieved for several local residents.

**Response:** GLAAG and Save Mirfield advise that the drainage route does not exist *to their knowledge* and they therefore assert that it is a new route that has not been assessed as to its suitability and impact on the site and surrounding area. That is not the case. Even if the landowner has dug out some of the blocked drainage, there are a combination of factors that provide evidence that there is a natural overland flow route running to the rear of the existing stables and Stringers Place before draining towards Hagg Lane and ultimately discharging to Granny Lane. This evidence includes topographical data, depressions in the exiting landscape that are evident on site and also the observations of the LLFA during previous flood events. The analysis of this information and the experience of the LLFA also means that it has clearly been assessed. The issue of betterment referred to in the letter requires clarification. The LLFA were principally referring to residents opposite the site whose houses are sited within Flood Zone 3ai – the houses are located in an area with a high probability of flooding and in fact are on land where water would flow in times of flood where it not prevented from doing so by infrastructure based on an annual probability of 1 in 20 (5% AEP) or greater. Under current local policy, residential development in Flood Zone 3ai would not be permitted. However, this is an existing situation that would be unchanged by the current application – it cannot be expected to mitigate existing flooding on sites already with a high probability of flooding but the Council are satisfied that it would not increase flood risk elsewhere, which is the test in the NPPF.

To date, only an area wide desktop drainage assessment has been undertaken. In light of Mr Farndale's comments at the meeting on 22 October 2020, the proposed new drainage route, the time that has elapsed and further evidence produced, it is our client's view that a Sequential test should be undertaken and, if applicable, an Exception test should also be undertaken.

**Response:** The application has been supported by a site specific Flood Risk and Drainage Assessment, which has been revised in the course of the application, including the Drainage Technical Note submitted in December 2020. These have been fully considered by professional with technical

expertise in these matters at the Environment Agency, Yorkshire Water and the LLFA. All have no objection to the application subject to conditions. Furthermore, the requirement for a Sequential and Exceptions Test is determined by national and local planning policy and guidance and not by the passage of time that has elapsed. The need for the Sequential and Exceptions Test is very clearly addressed in the Committee Report.

### Planning obligations

10.93 Paragraph 56 of the NPPF confirms that planning obligations must only be sought where they meet all of the following: (i) necessary to make the development acceptable in planning terms, (ii) directly related to the development and (iii) fairly and reasonably related in scale and kind to the development. Should planning permission be granted, Officers recommend that this application should be subject to a Section 106 agreement to cover the following:

- Affordable housing – As noted above, to accord with Local Plan Policy LP11, the applicant proposes 13 affordable housing units. Arrangements shall cover the number, type, layout, disposition, timescale and mechanism for provision, and shall confirm the units are to be provided in perpetuity.
- Open space – Off-site contribution of £58,808.00 to address shortfalls in specific open space typologies. Arrangements shall also cover the layout, disposition, timescale and mechanism for provision, and shall confirm the open space is to be publicly-accessible in perpetuity.
- Education – Officers have confirmed that a £157,992 contribution towards secondary school provision is necessary to serve the needs of the proposed development.
- Sustainable transport – Measures to encourage the use of sustainable modes of transport, including Travel Plan monitoring arrangements and fees involving a financial contribution of £53,533.50.
- Drainage – Arrangements to secure the long-term maintenance and management of the applicant's surface water drainage proposals, including a £3,000 financial contribution to contribute towards the future upgrade of a piped water course at the southern edge of the site and also, arrangements for a management company to maintain the ditching (the flow route) to the rear of Plots 32-36 in perpetuity so that blockages to the route(s) are less likely to happen post development due to a stated maintenance programme that can be enforced;
- Drainage – an additional financial contribution of £5K for research and improvements to Valance Beck, which contributes to the flooding of Granny Lane in the vicinity of the access to the proposed development. These funds would contribute to items such as measures to stop debris flowing downstream reducing the risk of blockages.

10.94 The requirement for an obligation to retain the affordable housing in perpetuity and with regard to open space is set out in the report above.

10.95 With regard to education, the contribution is determined in accordance with the Council's policy and guidance note on providing for education needs generated by new housing. This confirms that The Local Authority's (LA) Planning School Places Policy (PSPS) provides the framework within which decisions relating to the supply and demand for school places are made. Contributions will only be sought where the new housing will generate a need

which cannot be met by existing local facilities. This will be determined through examination of current and forecast school rolls of relevant primary and secondary schools, their accommodation capacities and consideration of the type of housing to be provided. This provides a consistent approach to securing the education contribution within the planning application process.

- 10.96 The contribution towards sustainable transport measures in accordance with guidance within the Highways Design Guide to secure improvements to travel by means other than the private car.
- 10.96 The heads of terms in relation to drainage will ensure that arrangements are in place to secure long-term maintenance and management of the surface water drainage proposal as well as to secure improvements locally.
- 10.97 For these reasons, these contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. They therefore conform to guidance within the Framework.

## **11.0 CONCLUSION**

- 11.1 The application site is allocated for residential development under site allocation HS66, and the principle of residential development at this site is considered acceptable.
- 11.2 The site has constraints in the form of adjacent residential development (and the amenities of these properties), topography, drainage, ecological considerations, the site's coal mining legacy, and other matters relevant to planning. These constraints have been addressed by the applicant, and the proposed development includes good quality housing (at an appropriate density and including sufficient affordable housing) and adequate open space. Approval of full planning permission is recommended, subject to planning conditions and obligations via a Section 106 agreement.
- 11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development Plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and it is therefore recommended for approval.

## **12.0 CONDITIONS (Draft list – any amendments/ additions, to be delegated to the Head of Planning and Development)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision

notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

**Reason:** For the avoidance of doubt as to what is being permitted and so as to ensure the satisfactory appearance of the development on completion.

3. No development (excluding demolition) above ground level shall commence until manufacturers details of the facing and roofing materials (including samples if requested) in broad accordance with the External Finishes' plan ref: GRY/EX FIN/001 Rev J received 21 December 2020 has been submitted to and approved in writing. The development shall then be implemented in strict accordance with the approved details and thereafter retained.

**Reason:** To ensure a satisfactory quality of development on completion.

4. The site shall be developed with separate systems of drainage for foul and surface water on site, with combined off site. Surface water shall not exceed a maximum discharge rate of 5 (five) litres per second.

**Reason:** In the interest of satisfactory and sustainable drainage.

5. No development (excluding demolition) shall commence until a scheme detailing foul, surface water and land drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

- a. Details of off-site works;
- b. Connection to a public sewer at a maximum of 5l/s;
- c. Balancing works for the 1 in 100 + 30% climate change critical event, Plans and longitudinal sections;
- d. Hydraulic calculations;
- e. Phasing of drainage provision;
- f. Details of existing drainage to be maintained/diverted/abandoned and;
- g. Details of the underground storage tank(s) to include written confirmation that it can accommodate the emergency access road above it.

None of the dwellings shall be occupied until such approved drainage scheme has been provided on the site to serve the development or each agreed phasing of the development to which the dwellings relate and thereafter retained.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage so as to avoid an increase in flood risk. This is a pre-commencement condition

6. No development shall commence until a scheme, detailing temporary surface water drainage for the construction phase (after soil and vegetation strip) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail: - phasing of the development and phasing of temporary drainage provision. - include methods of preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land is prevented. The temporary works shall be implemented in accordance with the approved scheme and phasing. No phase of the development shall be commenced until the temporary works approved for that phase have been completed. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the Local Planning Authority.

**Reason:** To avoid an increase in flood risk during the construction phase

7. The development shall be carried out in accordance with the submitted flood risk assessment (by RWO Associates ref RO/FRA/17224.1 version 7 dated 10.12.2019) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 45.87m above Ordnance Datum (AOD).
- There shall be no raising of ground levels in the area of public open space (POS) located within the flood zone 3 extent shown in drawing SK1 (rev 1) in Appendix D of the FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason:** To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere.

8. No development (excluding demolition) shall commence until a scheme detailing the design, construction, operation, maintenance and management of the emergency access road and surface water flood route pathways to avoid curtilage flooding has been submitted to and approved in writing by the Local Planning Authority. The details of the emergency access shall include the following:

- Details of the road width (to be minimum of 3.7m between kerbs);
- Details of the gateway width (to be a minimum of 3.1m) and visibility splay;
- Details of carrying capacity (to be a minimum of 24 tonnes);
- Details of any removable bollards or gate barriers.

The approved scheme shall be fully implemented prior to the occupation of any dwellings and retained thereafter.

**Reason:** In order to maintain an emergency access into the site at all times.

9. The buildings hereby approved shall not be occupied until the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in strict accordance with the approved details and thereafter retained.

**Reason:** In the interests of the free and safe use of the highway and to ensure an acceptable layout for pedestrians in accordance with Policies LP21 of the Kirklees Local Plan.

10. No works shall begin until a Construction Management Plan been submitted to and approved in writing by the Local Planning Authority. The Management Plan shall include full details of:

- a) The means of access to the site for construction traffic to include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site;
- b) Detail of construction workers parking facilities;
- c) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
- d) Measures to control the emissions of dust and dirt during construction;

- e) Location of site compound, plant equipment/storage and car parking for on-site employees;
- f) Hours of site working;
- g) Provide details of a site manager and identify how the contact details for the site manager will be displayed externally on the site.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site.

**Reason:** To protect the living conditions of adjoining occupiers during the construction phase.

11. No development (excluding demolition) shall commence until a scheme detailing the location and cross sectional information together with the proposed design and construction for all new retaining walls/building walls adjacent to the existing/proposed adoptable highways shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be fully implemented in accordance with the approved design and retained during the life of the development. Each plot shall have its respective retaining/building walls completed prior to occupation.

**Reason:** In the interests of the free and safe use of the highway.

12. No development (excluding demolition) shall commence until a scheme detailing the location and cross sectional information together with the proposed design and construction details for all new surface water attenuation culverts/ tanks located within the proposed adoptable highway footprint shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented prior to the occupation of the development.

**Reason:** To ensure the provision of adequate and sustainable systems of drainage and to avoid an increase in flood risk, in accordance with Policy LP28 of the Kirklees Local Plan.

13. Other than demolition works, no development shall commence on Plots 33-36 (in the location of the demolished building) until a further Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The extent and scope of the intrusive survey shall be agreed with the Local Planning Authority prior to its implementation.

**Reason:** To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

14. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 13, development shall not commence on Plots 33-36 until a Remediation Strategy has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

**Reason:** To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to Condition 14. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise agreed in writing with the local planning authority, works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

**Reason:** To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

16. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.

**Reason:** To identify and remove unacceptable risks to human health and the environment from land contamination in accordance with Policy LP53 of the Kirklees Local Plan.

17. No development shall commence above damp proof course level until a report specifying the measures to be taken to protect the development from noise from nearby commercial premises shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- (i) Determine the existing noise climate
- (ii) Predict the noise climate in gardens (daytime), bedrooms (night-time) and other habitable rooms of the development
- (iii) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

**Reason:** To protect the residential amenity of future residents with regards to noise disturbance in accordance with the Policies LP24 and LP52 of the Kirklees Local Plan.

18. The development hereby approved shall include the installation of 1 electric vehicle charging point per unit (dwelling with dedicated parking) or 1 charging point per 10 spaces (unallocated parking). These shall meet at least the following minimum standard for numbers and power output: a Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW).

**Reason:** In the interest of improving the local air quality and promoting ultra-low emission vehicles and to accord with policy LP 51 of the Kirklees Local Plan.

19. No development shall commence above damp proof course level until a detailed landscape and bio-diversity scheme has been submitted to and approved in writing by the Local Planning Authority which elaborates on the landscape concept shown on plan 3158 101 Rev C. The scheme shall include:

- i) Details of trees/vegetation to be retained;
- ii) Details of species of trees/shrubs to be planted;
- iii) Methods of planting and spacing;
- iv) Size of planting;
- v) Protection of planted species;
- vi) Weed prevention;
- vii) Boundary details and means of enclosure between and around dwellings and around the site;
- viii) Details of how the scheme will enhance local biodiversity to reflect the priority habitats and species found within the relevant Flood Plains and Riverine Habitats Biodiversity Opportunity Zone and to include the installation of 6 bird boxes and 6 bat boxes and having regard to the recommendations set out in the Whitcher Wildlife Ltd. Ecological Consultants Extended Phase 1 Habitat Survey (Jan 2018) (Ref: 180110);
- ix) An implementation plan detailing the timescales for the landscape and bio-diversity schemes;
- x) A management plan, including long term design objectives, management responsibilities and maintenance schedules.

The approved hard and soft landscape works shall be implemented in accordance with the approved details prior to the development being brought into use, or within an alternative timescale to be first approved by the Local Planning Authority. Trees and shrubs which, within a period of five years of the planting being implemented (including existing trees), are removed, die or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

**Reason:** To ensure the provision and establishment of an acceptable landscape and bio-diversity scheme and successful aftercare of landscaping.

20. Before any materials are brought onto site or development commences, the developer shall erect protective chestnut paling or similar fencing around all trees, shrubs or hedges to be retained, to the branch spread of individual trees or groups of trees/shrub. The applicant shall obtain the Local Planning Authority written confirmation that the fence is satisfactory and shall maintain such fencing unaltered until the development is complete.

**Reason:** To ensure the protection and preservation of trees, shrubs or hedges and other natural features during the construction works.

21. No development shall commence until a written scheme of archaeological investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

**Reason:** To ensure that appropriate archaeological recording is undertaken.

22. No dwellings shall be occupied until a scheme providing details of the play equipment to be installed within the proposed play area has been submitted to and approved in writing by the Local Planning Authority. The details shall include a timescale for the implementation of the play equipment. The approved scheme shall be fully implemented and retained/maintained thereafter.

**Reason:** To ensure that satisfactory provision of play equipment having regard to the living conditions of future occupiers.

23. Excluding the ground levels in the area of public open space (POS) that are subject to Condition 7, no development (excluding demolition) shall commence on the remainder of the site until final details of existing and proposed ground levels (to include cross-sections) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure works are carried out at suitable levels in relation to adjoining properties, flood risk and highways.

24. Prior to the commencement of the development hereby approved (excluding demolition), details of a scheme for the eradication and/or control of Himalayan Balsam and other invasive species on the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

**Reason:** In order to prevent the spread of a non-native invasive species.

25. No development shall commence above damp proof course level until details of adequate security measures for the dwellings hereby approved have been submitted having regard to 'Secured by Design' and the guidelines set out in Crime Prevention Through Environmental Design (CPTED). The scheme shall then be implemented in accordance with the approved details and thereafter retained.

**Reason:** In the interests of crime prevention and creating safer places.

26. No development shall commence above damp proof course level until a detailed cross sectional design of the surface water drainage corridor to the rear of plots 32-36 to extend from their rear gardens to a point cross the border with adjacent land has been submitted to and approved in writing by the Local Planning Authority. The details shall include all fences and hedgerows to be maintained, removed, or replaced, along with ditching dimensions and any bunding required. It should also provide details of all levels and gradients. The development shall be implemented in accordance with the approved plan and therefore retained.

**Reason:** In the interests of securing and maintaining an acceptable surface water drainage strategy.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/Planning-applications/search-for-Planning-applications/detail.aspx?id=2019%2f91467>

Certificate of Ownership – Certificate B completed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

**Date: 27-Jan-2021**

**Subject: Planning Application 2019/92787 Erection of 260 dwellings with open space, landscaping and associated infrastructure Land at Owl Lane, Chidswell, Dewsbury**

### APPLICANT

Barratt Homes

### DATE VALID

29-Aug-2019

### TARGET DATE

28-Nov-2019

### EXTENSION EXPIRY DATE

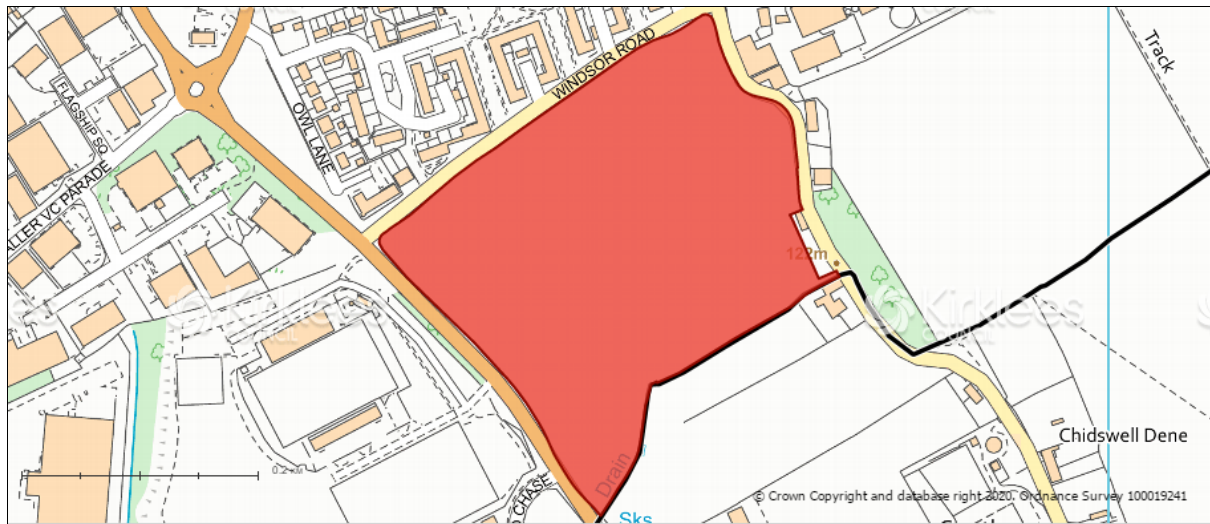
12-Feb-2021

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

### LOCATION PLAN



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Dewsbury East**

**Ward Councillors consulted: Yes**

**Public or Private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 52 affordable housing units (75% (39 units) Discounted Market Sale, 25% (13 units) affordable rent) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £382,786 to address shortfalls in specific open space typologies.
- 3) Education – Contribution required (amount to be confirmed).
- 4) Highway improvements – Contribution of £200,000 towards Shaw Cross junction improvements, and provision or funding of cycle lane linking the site to Challenge Way.
- 5) Chidswell Lane / spine road junction – Funding of future works to junction when development at site MXS7 is brought forward. No ransom scenario to be created. Northern section of Chidswell Lane to be stopped up and provided with a turning heard. Signed restrictions on right and left turns to be provided. Contribution towards monitoring of effectiveness of signed restrictions, and later works if necessary.
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring.
- 7) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 8) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 9) Air quality – Contribution (amount to be confirmed) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 This application for full planning permission is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.

- 1.2 A position statement relating to this application was considered by the council's Strategic Planning Committee on 24/10/2019. At that time, 252 residential units were proposed in a different layout.
- 1.3 Subsequent to that meeting, the proposed development was amended, a second public consultation exercise was carried out by the council, and further representations were received.
- 1.4 A report relating to this application was considered by the council's Strategic Planning Committee on 28/10/2020. At that time, 280 residential units were proposed. At that meeting it was resolved to defer the committee's decision for the following reasons:
- Highways – More information and assessment, including in relation to Owl Lane / Chancery Lane roundabout, accident data, details of spine road / Chidswell Lane junction, and cycle provision.
  - Drainage – LLFA comments to be addressed and full drainage solution to be submitted.
  - Affordable housing – To be better distributed around the site.
  - Unit sizes – Improvement required in relation to Nationally Described Space Standard.
  - Noise – Details of mitigation measures relating to Dewsbury Rams and car boot sale noise.
  - Light pollution – Details of measures to address potential amenity impacts caused by lighting at Dewsbury Rams ground.
  - Air quality – Details of mitigation measures required.
  - Ground conditions – Further investigation into combustible soils required.
  - Biodiversity – Details of measures to achieve net biodiversity gain required.
  - Apprenticeships – Confirmation that Dewsbury College would be involved.
  - Maintenance – Clarification as to who would maintain open space and hedgerows.
- 1.5 Following the Strategic Planning Committee's deferral, the applicant amended the proposals. 260 residential units are now proposed.
- 1.6 Paragraph 10.1 onwards of this report summarises how the applicant has responded to the reasons for deferral, and more detailed consideration of the amendments and further information is provided in subsequent sections.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is 7.98 hectares in size and is allocated for housing in the Local Plan (site allocation ref: HS47). The site is bounded by Owl Lane (the B6128), Windsor Road and Chidswell Lane on its southwest, northwest and east sides, and the site's southern edge meets the Kirklees/Wakefield borough boundary.

- 2.2 The site is greenfield and is currently in agricultural use. To the north are residential properties on the opposite side of Windsor Road. To the east are the buildings of Chidswell Farm, its farm shop and The Huntsman PH. Boundary End Cottage abuts the site at its east corner. To the west is the relatively recent Amberwood Chase residential development and the grounds of Dewsbury Rams Rugby League Football Club.
- 2.3 The site generally slopes downhill from north to south. The site's lowest point is at its south corner (approximately 105m AOD), and its highest point is at its north corner opposite Chidswell Farm (approximately 124m AOD).
- 2.4 No part of the site is within a conservation area, and there are no listed buildings within the site. The water tower at Gawthorpe Reservoir is an important local landmark to the southeast of the site (within Wakefield borough). The site has some landscape sensitivity resulting from its location, surrounding topography, and visibility from surrounding locations.
- 2.5 No trees within or immediately adjacent to the site (within Kirklees) are protected by Tree Preservation Orders. Adjacent land to the south, within Wakefield borough, is green belt. The site is within a Biodiversity Opportunity Zone (Pennine Foothills) and an Impact Risk Zone of a Site of Special Scientific Interest.
- 2.6 The site's existing boundaries are dry stone walls, fenceposts-and-wire, and hedgerows.
- 2.7 No public rights of way cross the site, however public footpath DEW/146/10 meets Chidswell Lane to the east.
- 2.8 Part of the site is within a Development High Risk Area as defined by the Coal Authority.
- 2.9 The site is with the North Kirklees Growth Zone, which identifies Chidswell as a major strategic employment location for the City Region, and a location for over 1,500 new homes.
- 2.10 Adjacent sites are also allocated for development in the Local Plan. To the northeast, site MXS7 (land at Leeds Road) is allocated for mixed use development (housing and employment). To the southwest, site HS52 is allocated for housing – this is the site of the Amberwood Chase development.
- 2.11 A pre-application position statement for site MXS7 was presented to the Strategic Planning Committee on 11/07/2019. Applications for outline planning permission for mixed use development at that site are currently under consideration (refs: 2020/92331 and 2020/92350), and a further position statement was considered by the Strategic Planning Committee on 17/11/2020.
- 2.12 On 14/12/2020 planning permission was granted for the erection of two dwellings adjacent to The Huntsman PH (ref: 2020/91451).

### **3.0 PROPOSAL:**

- 3.1 The application is for full planning permission for the erection of 260 residential units. These would be provided either side (to the north and south) of a spine road that would run east-west across the site between Owl Lane and Chidswell Lane.
- 3.2 A new roundabout would be created at the spine road's junction with Owl Lane. The spine road would meet the footway of Chidswell Lane, but for the time being a vehicular connection would not be made – the spine road would be continued eastwards in the future as part of the development of the adjacent site MXS7. Private driveways and shared drives are proposed off this spine road, and off Windsor Road and Chidswell Lane. Pedestrian connections are proposed to Windsor Road and Owl Lane. Off-street car parking is proposed in private driveways and garages, and in parking courts. Along the spine road the applicant proposed 3m wide shared cycle/footways, separated from the carriageway by a soft landscaped verge.
- 3.3 The 260 residential units would include 52 affordable housing units comprising 14x one-bedroom apartments, 26x two-bedroom houses and 12x three-bedroom houses. The development's private element would comprise one one-bedroom house, 37x two-bedroom units (including five flats-over-garages), 126x three-bedroom houses and 44x four-bedroom houses. The 52 affordable housing units represent a 20% provision.
- 3.4 Two areas of open space would be provided close to the centre of the site, either side of the new spine road. The northern space would meet Windsor Road, and would accommodate a playspace. A third open space would be provided at the site's southern corner.
- 3.5 Dwellings would be detached, semi-detached, or provided in short terraces or as apartments. 17 house types are proposed, along with four apartment types. Most buildings would be two storeys in height, with three-storey dwellings proposed in some locations. The proposed materials include red and buff brick, artificial stone, and grey and red roof tiles. Boundary treatments would include brick walls, railings and timber fencing.
- 3.6 The applicant intends to dispose of surface water via an attenuation tank beneath the southernmost open space, from which water would be discharged at a controlled rate to the existing watercourse to the south. Foul water would be disposed of via the existing combined sewer beneath Owl Lane.
- 3.7 The applicant is Barratt Homes.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 94/91111 – Planning permission granted 10/08/1994 for the change of use of agricultural land at Chidswell Farm to a 20-bay golf driving range with associated driving range building and car park area. Permission subsequently renewed on 02/12/2004 (ref: 2004/94789).

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 The applicant requested pre-application advice from the council in January 2018 (ref: 2018/20087) in relation to a residential development of 279 homes with a layout different to that currently proposed. Officers met with the applicant team on 20/08/2018, and written advice was provided on 19/10/2018. That written advice included the following points:

- Residential development will be acceptable in principle at this site once the Local Plan is adopted.
- Application should only be submitted after adoption of the Local Plan.
- Engagement with owners of adjacent proposed site allocation is appropriate.
- Site is within a Development High Risk Area and liaison with the Coal Authority is therefore appropriate.
- Emerging Local Plan policy includes a policy regarding mineral extraction.
- Amendments to point of access and alignment of roundabout necessary. Roundabout with four arms (incorporating access to Dewsbury Rams ground) would be appropriate.
- Segregated cycle/footway needed, particularly along Owl Lane.
- Grass verges should be planted to improve street scene and biodiversity.
- Layout should be futureproofed to allow for buses.
- Guidance provided on design of spine road. 6.75m carriageway needed.
- Concern regarding lack of active frontages to spine road.
- Proposed layout lacks a well-defined hierarchy of streets, lacks legibility, has parking dominating some frontages, and raises other design concerns.
- Proposed development appears too dense in places.
- Building for Life assessment should be provided.
- Green Streets principles should be followed.
- Affordable housing should be spread across the site.
- Open space should be more centrally positioned.
- Landmark buildings should be proposed.
- Further technical advice relayed, along with advice on required application submission documents.

5.2 The applicant team subsequently amended the proposals, and draft layout drawings were submitted informally on 03/07/2019 and 01/08/2019. The applicant team met officers on 24/07/2019 and Members (Cllr Kane and Cllr Lukic) on 14/08/2019. Further pre-application advice was emailed to the applicant team on 09/08/2019 and 16/08/2019. That written advice included the following points:

- Proposed layout has improved. The general approach to layout (including, mostly, perimeter blocks) is welcomed.
- Proposed shortfall in units (251 were proposed) is of concern, given the site's indicative capacity of 280. There is scope for changes to the proposed layout and typologies in order to increase unit numbers.
- Apartments, in blocks of two or three storeys, would be appropriate.
- Excessive elevation-to-elevation distances along the spine road.

- Queried whether thought had been given to running an estate road along the south edge of the site.
- Provision of two central areas of open space either side of the spine road is welcomed. Measured area figures for all of the proposed open spaces requested.
- All streets should be designed with regard to Green Streets principles.
- All units should meet the Government's Nationally Described Space Standard.

5.3 The applicant held a public consultation event at Dewsbury Rams Rugby League Football Ground on 18/07/2019.

5.4 The applicant's initial application-stage proposals were not significantly different to those pre-application proposals considered by officers in August 2019 (and to which the above pre-application advice related). Upon submission of the current application, however, the applicant expressed a willingness to amend the proposals during the life of the current application, once consultee responses were received.

5.5 During the life of the current application, appendices to the applicant's Transport Assessment were submitted on 03/10/2019, and a Health Impact Assessment was submitted on 21/10/2019. Archaeological information was submitted on 14/10/2020. Most significantly, on 14/05/2020 the applicant amended the proposals, resulting in a residential scheme of 280 units, with a revised layout, and a revised unit size and tenure mix. An amended roundabout and spine road design, along with supporting highways information, was also submitted.

5.6 Following the Strategic Planning Committee's deferral on 28/10/2020, the applicant amended the proposals and submitted further information. On 24 and 26/11/2020, the applicant provided written submissions relating to environmental health matters. Drainage information was submitted on 17/12/2020. Drawings of the spine road / Chidswell Lane junction were submitted on 04/01/2021. Drawings illustrating an amended scheme of 260 residential units were submitted on 08, 12 and 13/01/2021. A drainage exceedance / flood routing plan was submitted on 15/01/2021. On 18/01/2021 the applicant submitted amended drawings to illustrate revisions to units 163 to 168, and the applicant confirmed the tenure split of the proposed affordable housing.

5.7 Dialogue with relevant parties has been ongoing in relation to the current application. On 09/10/2019 and 12/10/2020 officers met with the applicant team and representatives of the Church Commissioners for England (the applicants for the adjacent site MXS7) to discuss highways matters. Meetings with Highways England, Wakefield Council and other parties have also taken place during the life of the application.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

Kirklees Local Plan (2019):

6.2 The application site is allocated for residential development in the Local Plan (site allocation ref: HS47). The site allocation sets out an indicative housing capacity of 280 dwellings for the site.

6.3 Site allocation HS47 identifies the following constraints relevant to the site:

- Part/all of site is within a High Risk Coal Referral Area.
- Site on potentially contaminated land.
- Noise source near site – noise from road traffic and adjacent rugby ground.
- Site is near archaeological site.

6.4 Site allocation HS47 also identifies other site-specific considerations in relation to access to the adjacent site MXS7, a landscape buffer along the site's southern boundary, masterplanning, and mitigation of highway network impacts.

6.5 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP4 – Providing infrastructure  
LP5 – Masterplanning sites  
LP7 – Efficient and effective use of land and buildings  
LP9 – Supporting skilled and flexible communities and workforce  
LP11 – Housing mix and affordable housing  
LP19 – Strategic transport infrastructure  
LP20 – Sustainable travel  
LP21 – Highways and access  
LP22 – Parking  
LP23 – Core walking and cycling network  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP38 – Minerals safeguarding  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP65 – Housing allocations

## Supplementary Planning Guidance / Documents and other documents:

### 6.6 Relevant guidance and documents:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)
- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)
- Viability Guidance Note (2020)

6.7 A draft Housebuilder Design Guide SPD, Open Space SPD and Biodiversity Net Gain Technical Advice Note were published by the council in 2020. These have undergone public consultation, but have not been adopted.

### Climate change

6.8 The council approved Climate Emergency measures at its meeting of full Council on 16/01/2019, and the West Yorkshire Combined Authority has pledged that the Leeds City Region would reach net zero carbon emissions by 2038. A draft Carbon Emission Reduction Pathways Technical Report (July 2020, Element Energy), setting out how carbon reductions might be achieved, has been published by the West Yorkshire Combined Authority.

6.9 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

### National Planning Policy and Guidance:

6.10 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 17 – Facilitating the sustainable use of materials.

6.11 Since March 2014 Planning Practice Guidance for England has been published online.

6.12 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – nationally described space standard (2015, updated 2016)
- Cycle Infrastructure Design – Local Transport Note 1/20 (2020)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was advertised as a major development and as development affecting a public right of way.

7.2 The application was advertised via four site notices posted on 12/09/2019, a press notice on 13/09/2019, and letters delivered to addresses close to the application site. This is in line with the council's adopted Statement of Community Involvement. The end date for publicity was 04/10/2019.

7.3 196 representations were received in response to the council's initial consultation. These have been posted online. The following is a summary of the comments made:

- Objection to loss of green belt land. Loss of recreational and amenity value of this land.
- Loss of quality agricultural land.
- Site should be used for tree planting.
- Children would be unable to learn from nature.
- Development would be urban sprawl. Separation corridor needed. Adverse landscape impacts.
- Development would be unsightly.
- Local landmark (water tower) would be deflected from, changing the historic character of the area.
- Disproportionate concentration of development at Chidswell.
- Cumulative impacts of developments.
- Brownfield-first approach should be applied. Other sites would be more suitable for development.

- Highways objections. Local road network unable to cope with increased traffic. Applicant's assessment focuses on Owl Lane instead of looking at wider area. Owl Lane and Shaw Cross junction already congested. Matches and car boot sales at Dewsbury Rams ground already cause problems. Recent development on Owl Lane has already increased pressure. Proposal would increase traffic pressure on Windsor Road and Chidswell Lane. Chidswell Lane and Gawthorpe will be used to avoid congestion. Impact on operations of nearby businesses.
- Highway safety concerns. Accidents already occur on Owl Lane, and proposals would increase risk. Owl Lane ices over in winter. Cars already speed on local roads. Visibility on Windsor Road is poor.
- No cycle paths or pedestrian crossings proposed. Buses are slow and expensive. Children unlikely to walk to school along busy roads. Residents unlikely to cycle to Dewsbury or Batley due to topography.
- Increased air pollution. Majority of vehicles using 551 parking spaces would not be electric for at least 10 years.
- Increased noise pollution.
- Odour impacts.
- Noise, disruption and other impacts during construction works.
- Loss of privacy to adjacent houses.
- Loss of natural light to adjacent houses.
- Loss of outlook.
- Loss of views across field.
- Inadequate affordable housing. No one-bedroom affordable homes proposed. Homeless people will not be able to afford the new homes.
- Impacts on hospitals, doctors and dentists. Services are already under pressure.
- Impacts on schools. Local schools are already struggling to accommodate children.
- Impact on local social care infrastructure.
- Coal Authority comments are cautionary.
- Site is subject to major flood risk.
- Houses would not be carbon neutral. No solar panels proposed.
- Loss of wildlife and habitats.
- Loss of ancient woodland.
- Adverse impact on quality of life.
- Proposals unfair to residents who have retired to the area.
- Proposals are about making money, with no regard to residents.
- Development of sites far removed from Dewsbury town centre will not assist with the regeneration of the town.

7.4 Cllr Lukic made the following comments on 23/09/2019:

*I agree with my constituents who say that this open countryside is not an appropriate location for such large-scale housebuilding, but also understand that this land has been allocated for housing in the Local Plan. As one of the largest housebuilders I expect the applicant to work as good community neighbours if their application is approved. The applicant's agent has told us ward members that our feedback offered prior to submission is under consideration, but I am disappointed that at the time of writing the plans do not appear to have been altered from the version that was presented to us*

*previously. I have significant concerns about safety, with cycle priority being necessary when crossing side road junctions but not currently shown on the plans. In my opinion the cycle provision on the proposed spine road should be to superhighway standards on this key route between Dewsbury and Leeds. If this application is approved there will also be a relatively short gap in cycle provision between the off-road path on the proposed new spine road and the existing off-road cycle path on Challenge Way. I would like the applicant to commit to fund a safe offroad connection between these routes, preferably to superhighway standards, through a S106 agreement or other appropriate means. From what I can see, this application should generally attract a significantly higher level of contributions for the local community.*

7.5 The Chidswell Action Group (CAG) submitted objections to the application, along with a Technical Note (TTHC, October 2019) regarding highways impacts. The main points raised are summarised as follows:

- Cumulative impacts of 11 housing, employment and mixed use allocations must be considered. Developments at these sites would together impact negatively in relation to air quality, water quality, noise, light pollution, and road capacity.
- Density is below 35 dwellings per hectare and does not comply with policy LP7.
- Highways impacts – proposal does not comply with policies LP19, LP20 and LP21. Similar site rejected for allocation due to adverse impact on the traffic network, and same principles and methodology for rejection should apply to application site.
- Design – proposal does not comply with policy LP24a.
- Landscape impact – proposal does not comply with policy LP32, as it does not contribute to current countryside/semi-rural character of the landscape and would contribute to changing this character to built-up/urban.
- Drainage – proposal does not comply with policies LP28 and LP34. Unclear how drainage concerns would be resolved to achieve necessary drainage without harm to the water environment. Cumulative drainage matters have not been considered.
- Biodiversity – proposal does not comply with policy LP30. Preliminary Ecological Appraisal Report is flawed. Bats are present in the area, and West Yorkshire Ecological Services are not referenced in the report.
- Health – proposal does not comply with LP47a, d and h, as loss of agricultural land will decrease ability to produce sustainable food, air quality would be reduced, and pollution and environmental hazards would be increased.

7.6 Responses to these comments are set out later in this report.

7.7 Following the submission of an amended layout and the increase in the proposed number of residential units to 280, a second round of consultation was carried out. Four site notices were posted on 15/08/2020, and letters were sent to residents and interested parties. A further press notice was published on 23/07/2020. 96 further representations were received. These have been posted online. The following is a summary of the comments made:

- Objection to principle of development. Insufficient public consultation on release of green belt site. Brownfield land should be used instead.
- Site and development are unsustainable. Approval would be contrary to council's climate change declaration.
- Cumulative impacts would occur.
- Proposal would enable development of more land to the east.
- Housing not needed. Area has many vacant properties.
- Objection to expansion and merging of settlements.
- Change to local character. Semi-rural Chidswell would become urbanised.
- Adverse visual impact on local area.
- Loss of green space. Outdoor recreation more important during lockdown.
- Loss of agricultural land.
- Inadequate local infrastructure. Schools and nurseries are at capacity. Local dentists, hospitals and GP surgeries are over-subscribed. New infrastructure should be provided prior to development. Suggested education payment would be inadequate.
- Local congestion. Traffic already queues and has difficulty turning in many locations. Rugby ground traffic, car boot sales, tractor traffic and on-street parking make movement difficult. Chidswell Lane should not be used as a main route into site. Junction improvements would simply move problems up the road. Concerns set out in Chidswell Action Group's technical report have not been addressed.
- Safety concerns. Pedestrians are already unable to safely cross roads. Chidswell Lane lacks footway. Accidents have happened on Owl Lane and Chidswell Lane. Direct access from Windsor Road should not be allowed.
- Traffic assessments were carried out during lockdown and school holidays. Results will be unrepresentative.
- Spine road design is of an inappropriate scale for the proposed development.
- Inadequate on-site parking proposed.
- Impacts of heavy construction traffic, including lorries.
- Local public transport inadequate. Travel Plan is unrealistic.
- Local cycling infrastructure inadequate.
- Air quality impacts. Increased carbon dioxide emissions.
- Odour impacts.
- Increased noise.
- New residents may complain regarding noise from existing nearby businesses.
- Adverse impact on mental and physical health.
- Increased risk of flooding.
- Additional sewage would be generated.
- Adverse impact on wildlife. Many species are present locally. Bats reside in nearby buildings.
- Loss of trees.
- Communities in Wakefield and Leeds would also be affected.
- Query whether council has a duty to co-operate with Wakefield Council.

7.8 Cllr Lukic made the further comments (which were omitted from the previous committee report in error) on 26/07/2020, as follows:

*I object to this application in its current form due to an issue I have previously raised informally regarding the proposed spine road paths.*

*The application is not compliant with Local Plan Policy LP20 as it does not encourage cycling. The proposed spine road paths are discontinuous, so cycles proceeding straight on the spine road paths are forced to stop and give way at side street entrances to private vehicles turning in or out. In Policy LP20 cycles are clearly above private vehicles in the user hierarchy, but this proposal encourages the use of private vehicles by giving them inappropriate priority and is therefore not acceptable from a policy perspective.*

*For the same reason I would argue the application is not compliant with Local Plan Policy LP21 because a discontinuous path is not an effective or safe means for cycles to access the development.*

*This spine road will form a cycle route between Dewsbury and Leeds. The paths need to run continuous across the side road entrances and vehicles turning in and out of side roads should give way to cycles proceeding straight on. This is part of the design standard for main cycle routes in West Yorkshire such as the Leeds-Bradford City Connect scheme.*

*I would also argue that separate paths should be provided for cycles and pedestrians as is seen along the City Connect route.*

*In adopted policies the council wants to encourage walking and cycling and we should be ensuring we get a cycle superhighway-style design for this main link in the cycle network.*

*Just to add, I have also noticed that there is no safe crossing for cycles at the entrance to the spine road from Owl Lane, this junction needs to be made a safe design for all users.*

7.9 On 20/10/2020 Cllr Lukic provided further comments as follows:

*As this objection has unfortunately been missed and these specific points not addressed in the report I would be grateful if an update can be provided to the committee prior to the meeting, including my objection and an officer response. I can see two possible resolutions although there may be others:*

- Recommend further conditions so that development does not commence until the cycle provision along the spine road and across the new roundabout are redesigned to be fully compliant with LTN 1/20.*
- Or recommend deferral of the decision until the cycle provision has been redesigned.*

7.10 Following the Strategic Planning Committee's deferral of their decision on 28/10/2020, Cllr Lukic provided further comments to officers. These referred to guidance documents and provided suggestions for amendments to the proposals as follows:

*Kirklees Highway Design Guide SPD – Page 25, Key Design Driver 3: “Evaluating how cyclists are best provided for in a development should be addressed within the planning application and informed by the detailed guidance for instance within: a) Local Transport Note (LTN) 2/08: Cycling Infrastructure Design...”.*

*Local Transport Note 1/20 – Page 6, Paragraph 1.2.1-1.2.2: “...Local Transport Note (LTN) 1/20 replaces previous guidance on cycle infrastructure design provided by LTN 2/08, and accordingly LTN 2/08 is withdrawn. LTN 1/20 also replaces LTN 1/12: Shared Use Routes for Pedestrians and Cyclists, and accordingly, LTN 1/12 is now withdrawn. See also Chapter 6, Section 6.5”.*

*Local Transport Note 1/20 – Page 9, Paragraph 1.6.1 Item 2): “Cycles must be treated as vehicles and not as pedestrians. On urban streets, cyclists must be physically separated from pedestrians and should not share space with pedestrians...”.*

*Local Transport Note 1/20 – Page 67, Paragraph 6.5.4-6.5.5: “In urban areas, the conversion of a footway to shared use should be regarded as a last resort. Shared use facilities are generally not favoured by either pedestrians or cyclists, particularly when flows are high. It can create particular difficulties for visually impaired people. Actual conflict may be rare, but the interactions between people moving at different speeds can be perceived to be unsafe and inaccessible, particularly by vulnerable pedestrians. This adversely affects the comfort of both types of user, as well as directness for the cyclist. Where a shared use facility is being considered, early engagement with relevant interested parties should be undertaken, particularly those representing disabled people, and pedestrians and cyclists generally. Engaging with such groups is an important step towards the scheme meeting the authority’s Public Sector Equality Duty”.*

*[Cllr Lukic’s] suggestions for amending the proposed highways to address safety, and other issues:*

- *Spine Road*
  - *Current plan shows 2m landscaped verges + 3m shared use facilities either side of the 6.75m carriageway:  $3 + 2 + 6.75 + 2 + 3 = 16.75\text{m}$  total highway width.*
  - *I would suggest instead having the verges + 2m footways on either side, + a 3m two-way cycle track along one side:  $2 + 3 + 2 + 6.75 + 2 + 2 = 17.75\text{m}$  total width.*
- *Windsor Road and Chidswell Lane*
  - *These streets already have speed cushions.*
  - *Traffic volumes would need checking, but I believe they are low enough to continue with on-carriageway cycling on these streets if the speed limit is reduced to 20mph – refer to Figure 4.1 on page 33 of LTN 1/20.*
  - *Therefore I would suggest a 20mph speed limit on the whole of Windsor Road and Chidswell Lane (including section in Wakefield district), and changing the proposed 3m wide shared-use facility on Windsor Road to a 2m footway – this would help both in quietening motor traffic on these streets and also providing the additional 1 metre space for the spine road.*

- *When stopping up the end of Chidswell Lane at Windsor Road junction, we must ensure that cycle access is maintained as this is an important quieter alternative to Owl Lane.*
- *For the same reason, any turning restrictions imposed in future should not apply to cycles.*
- **Owl Lane**
  - *There appears to be adequate space here to provide a verge, 2m footway and 3m two-way cycle track.*

7.11 Responses to the above comments are set out later in this report.

7.12 Later amendments (made after the above reconsultation and committee deferral) and submissions of information did not necessitate further public reconsultation.

## **8.0 CONSULTATION RESPONSES:**

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### **8.1 Statutory:**

8.2 Coal Authority – No objection to amended layout or increase in unit numbers to 280. Reiterated previous comment: no objection, subject to further commentary (required from applicant team) regarding remedial and/or mitigatory measures – this can be submitted at application or conditions stage. Adequate assessment of the site’s coal mining risks has been undertaken. Site falls within the defined Development High Risk Area, therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered. The site is likely to have been subject to historic unrecorded underground coal mining at shallow depth. The applicant’s Phase II Geo-Environmental Report has been informed by an extensive range of geological and coal mining information sources, and the results of intrusive ground investigations (boreholes encountered coal seams at a shallow depth). Its author concluded that, due to the quality of the coal found, the highly fractured ground, and the depth of competent rock cover, the site’s coal mining risk from unrecorded workings is negligible to low within the eastern part of the site, but to the west of the site’s fault line the risk is moderate. The report author recommended that either a geophysical survey or watching brief is appropriate for the western part of the site. Coal Authority would welcome further commentary from the report author on whether any remedial and/or mitigatory measures are deemed necessary. Proposed layout plan should be compared with findings to illustrate how risk relates to the proposed development. Council should consult with Environmental Health officers in relation to gas monitoring, as report author concluded that no gas protection measures are required. Regarding the applicant’s Mineral Statement, the site’s Lower Haigh Moor Coal is not likely to be considered a valuable resource as the cost to extract it would be too great, and the site’s Top Haigh Moor Coal seam may not be valuable due to its quality and varying thickness, and the site’s complex geomorphology.

8.3 Highways England – No objection. Request that Highways England are consulted on the Construction Traffic Management plan prior to commencement of works on site to understand construction traffic routing and in particular timings of deliveries to and from site which should specifically avoid any movements via M62 J28 during peak hours.

8.4 Lead Local Flood Authority – LLFA are satisfied that soakaways should be ruled out. Downstream survey of watercourse is adequate, and demonstrates the watercourse is fit for purpose. Proposed on-site attenuation is adequate, and 22l/s discharge is acceptable. Advise against using the condition recommended by Yorkshire Water. Two matters need to be resolved before the LLFA can withdraw its objection:

1) Blockage scenario testing – A full blockage scenario of the trash screen should be analysed in addition to the design of the trash screen itself. An assessment of the weir point where water will naturally spill out of the site is required. This level should then be plotted within site to see what area will be flooded in a full blockage scenario. A suitable freeboard above this level should then be agreed for property and curtilage with the LLFA. Attenuation location and manhole cover levels should also be discussed in relation to this weir level. It is noted that cover levels of existing manholes on the main road and a downstream level is recorded as 105.23 and 105.13 respectively. The layout plan provided should demonstrate that space has been made for water and that a calculation of potential storage using Kirklees stipulated discharge rates for the 1 in 100 year critical storm + 30% climate change can be accommodated on site and form a gravity connection to a suitable outfall.

2) Flood routing – In order to produce a comprehensive flood risk assessment, it should be demonstrated that the proposed highway layout can support safe flood routing to the southern boundary that avoids property curtilage and no property is located in a basin and poses a flood risk. Further detail of levels required.

8.5 KC Highways – No objection, subject to conditions and planning obligations securing highway improvements. Contribution towards junction improvement scheme at Shaw Cross required. Design of Owl Lane roundabout and spine road (including 3m wide shared cycle/footways) are acceptable. Proposal to not initially connect spine road to Chidswell Lane is acceptable until development comes forward at site MXS7. Design of this junction (a T-junction (with the northern section of Chidswell Lane stopped up) and a signed restriction on right turns into Chidswell Lane) is acceptable. Monitoring of compliance, and provision of funding for future intervention (if needed) should be secured.

**8.6 Non-statutory:**

8.7 KC Ecology – The site's potential for supporting protected species is limited. However, the site is surrounded by hedgerows, which are habitats of principle importance in the context of policy LP30. In order to accord with the mitigation hierarchy, these hedgerows should be retained wherever possible. Any loss of hedgerow will need to be compensated for. Required screen planting at the southern boundary could include gap planting of the defunct hedgerow in this location. Further to preventing significant ecological harm, the proposals are required to demonstrate a biodiversity net gain, but

currently this has not been demonstrated. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. In order to address the above, the proposals should be supported by landscaping information and a calculation of change in biodiversity value using an appropriate metric.

- 8.8 KC Education – Further comment (and confirmation of primary and secondary school education contribution required for the 260-unit scheme) awaited.
- 8.9 KC Environmental Health – Applicant's Preliminary Risk Assessment is an adequate phase 1 report. Applicant's phase 2 report is largely satisfactory, but does not consider the potential combustibility of soils. A revised report or addendum is required – this should include an assessment of the potential combustibility of the soils at different parts of the site so that a future remediation strategy can, if necessary, include remediation measures to address any combustibility issue. It should also provide more detailed information regarding the reasons for the depleted oxygen levels and the risks that this presents. Conditions regarding contaminated land will be necessary.

Noise Assessment by SLR Consulting Ltd. dated October 2019 (ref: 410.04993.00050, Version No: Draft) and a letter from James Burchell of SLR Consulting Ltd dated 23 Oct 2019 (ref: 410.04993.00050) together provide a satisfactory assessment of the noise climate at the site and the predicted levels that will arise at plots in the development parts a) and b) of the previously-recommended noise condition have been addressed and therefore are no longer required. However, part c) regarding the proposed noise mitigation measures has not been fully satisfied and therefore should be retained. Revised layout makes no changes to these recommendations. The mitigation measures, when submitted, will need to be based on the final site layout.

Applicant's proposed dust and emission measures for the development's construction phase are satisfactory – these will need to be conditioned. Electric vehicle charging points will be required by condition.

It is considered that the development is likely to have some adverse impact on the local air quality. This needs to be determined by the applicant, ideally this information should be provided before the application is determined. Conditions recommended.

There is a high potential for noise, vibration and artificial light associated with the development of the site to have a significant adverse impact on nearby residents. Construction environment management plan required, to demonstrate how these adverse impacts will be minimised. Condition recommended, and further advice provided regarding hours of works.

- 8.10 KC Landscape – Contribution of £382,786 required. Dewsbury East ward is deficient in natural and semi-natural green space, and allotments. 260 dwellings require a Local Area for Play, a Local Equipped Area for Play, and a contribution towards a Multi-Use Games Area. Proposed informal play area can be regarded as a Local Area for Play, however details of its design are required. No objection on landscape grounds, subject to early submission of landscaping details and green space matters being addressed. Section 106

agreement needed, to secure details of management of open spaces. Conditions recommended regarding landscaping, open space, planting and a Landscape and Ecological Management Plan.

- 8.11 KC Public Health – No objection in principle. Support 20% affordable housing provision, provision of electric vehicle charging, local recruitment of the development's construction workforce, and further recommend that advertisement of vacant positions is extended out to community-based organisations and not only mainstream workforce providers. Provision for cyclists along the proposed spine road would enable and encourage active travel, and is welcomed. Clear, convenient and safe connections to the neighbourhood's cycle path network would be further welcomed. Proposed layout generally appears to be walkable, which again should enable and encourage active travel. It would be useful to see further details of how pedestrian routes through the site connect with existing pedestrian routes in the surrounding neighbourhood, including routes to facilities such as bus stops, schools, sports facilities – plan at page 49 of the Design and Access Statement could be expanded. Proposed distribution of open spaces around the site would mean most residents would have convenient access to these spaces and would not necessarily have to cross busy roads to access play and other outdoor facilities. The reasonably clear hierarchy of roads and spaces, the resultant legibility of the proposed layout, and the limited number of cul-de-sacs, would help make the development dementia-friendly, however improvements could be made through marking of site entrances and other key locations, variety in building design, varied landscaping etc, to help assist wayfinding. All areas of public realm (including streets and open spaces) should be designed to be attractive and convivial, so that people will want to use them, and so opportunities for interaction are created. This in turn can result in health benefits by assisting with creating community and addressing loneliness. Outdoor seating should be provided in pleasant locations. People of all ages (including older and younger residents) should be given a reason to use the proposed open spaces.
- 8.12 KC Strategic Housing – Further comment (on the 260-unit scheme) awaited.
- 8.13 Wakefield Council – Wakefield Council objected to allocation of sites HS47 and MXS7, and would wish to comment on any future proposals for MXS7. Support proposal to stop up the spine road where it meets Chidswell Lane, as this rural lane with a recorded minimum width of 3.7m cannot facilitate an increase in two-way traffic, and would be the subject of road safety and traffic flow concerns. Chidswell Lane is an advisory cycle route. Residents of Chidswell Lane are concerned regarding any increase in traffic on this road. Traffic calming measures should be implemented in the part of Chidswell Lane within Kirklees. Site allocations require restrictions on turning into Chidswell Lane. These are critical to prevent a significant increase in localised traffic using Chidswell Lane, and should be a key consideration relevant to future applications for MXS7. Concern regarding proposed direct access to 16 new properties from Chidswell Lane. Wakefield Council Members have not commented, but have been directed to comment directly to Kirklees Council.

- 8.14 West Yorkshire Police Designing Out Crime Officer – No objection in principle, however revised layout is not supported. The rationale behind the concerns are the current crime statistics for this area. The main issues are:
- Multiple shared rear access to dwellings not supported.
  - Rear parking courts to plots 214 to 222 not supported due to limited natural surveillance and the higher risk of vehicle crime and anti-social behaviour.
  - Access-controlled gate required (by condition) to the rear car park of plot 89 to prevent unauthorised access and criminal activity.
  - A full lighting plan required (by condition) for the whole site, showing the lighting provision for private drives, and management plan required.
  - Boundary treatment plan required (by condition).

Properties should be designed in line with Designing Out Crime principles. Further advice provided regarding paths to rear of properties, lockable gates, lighting, boundary treatments, publicly-accessible areas, trees and vegetation, doors and windows, garages, parking, bin stores and alarms.

- 8.15 Yorkshire Water – Conditions recommended, requiring separate systems of drainage for foul and surface water, and no piped discharge of surface water prior to completion of satisfactory surface water outfall. Applicant's Foul and Surface Water Drainage Strategy is acceptable. Advice provided regarding sewer adoption.

## 9.0 MAIN ISSUES

- Applicant's response to reasons for deferral
- Land use and principle of development
- Quantum and density
- Sustainability and climate change
- Masterplanning, urban design, landscape and archaeological impacts
- Infrastructure requirements and delivery
- Residential amenity and quality
- Unit sizes
- Affordable housing
- Highways and transportation issues
- Flood risk and drainage issues
- Environmental and public health
- Site contamination and stability
- Trees, landscaping and biodiversity
- Representations
- Planning obligations
- Other planning matters

## 10.0 APPRAISAL

### Applicant's response to reasons for deferral

- 10.1 As noted above, at its meeting of 28/10/2020, the Strategic Planning Committee resolved to defer its decision for the following reasons:

- Highways – More information and assessment, including in relation to Owl Lane / Chancery Lane roundabout, accident data, details of spine road / Chidswell Lane junction, and cycle provision.
- Drainage – LLFA comments to be addressed and full drainage solution to be submitted.
- Affordable housing – To be better distributed around the site.
- Unit sizes – Improvement required in relation to nationally described space standards. 80% compliance now proposed, including all the affordable units.
- Noise – Details of mitigation measures relating to Dewsbury Rams and car boot sale noise.
- Light pollution – Details of measures to address potential amenity impacts caused by lighting at Dewsbury Rams ground.
- Air quality – Details of mitigation measures required.
- Ground conditions – Further investigation into combustible soils required.
- Biodiversity – Details of measures to achieve net biodiversity gain required.
- Apprenticeships – Confirmation that Dewsbury College would be involved.
- Maintenance – Clarification as to who would maintain open space and hedgerows.

10.2 Each of these reasons for deferral is responded to as follows:

- Highways – Drawings of the spine road / Chidswell Lane junction have been provided by the applicant, and these will be included in the officer's committee presentation. Traffic information (illustrated with annotations at each affected junction) has been provided, and this will also be included in the committee presentation. Officers have set out further commentary on provisions for cyclists in this report. A plan of the Shaw Cross junction improvement works will be included in the committee presentation.
- Drainage – The requested survey of the adjacent watercourse has been provided by the applicant, along with flood routing information.
- Affordable housing – The amended proposed layout illustrates an improved distribution of affordable housing across the site.
- Unit sizes – 80% of units would now exceed the minimum unit sizes set out in the Nationally Described Space Standard (NDSS). Most of the other 20% of units would be close to NDSS compliance. All affordable units would exceed NDSS.
- Noise – The applicant has provided a written response, stating that the proposed glazing specification, and appropriate boundary treatments, would adequately protect residents from noise generated by rugby matches and car boot sales.
- Air quality – The applicant has provided a written response, stating that the proposed provisions (electric vehicle charging points and a Travel Plan) are adequate, and that no further air quality mitigation is necessary.
- Ground conditions – The applicant has provided further information in relation to combustible soils, including a comment that no colliery spoil has been encountered (at the application site) that warrants combustibility testing.

- Biodiversity – The applicant intends to submit further landscaping information, and a net biodiversity gain assessment, prior to the determination of the current application.
- Apprenticeships – The applicant has advised that local people would be welcome to apply for apprenticeships, although a formal arrangement with Dewsbury College would not be possible.
- Maintenance – The recommended Section 106 agreement requires the establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

10.3 The above list summarises the applicant's responses to the reasons for deferral, and other relevant information. Assessment of the recently-submitted amended drawings and additional information is provided in the following sections of this report.

#### Land use and principle of development

10.4 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

10.5 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.

10.6 Full weight can be given to site allocation HS47, which allocates the site for housing. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis of available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land and reliance on windfall sites was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H559) stated that there were exceptional circumstances to justify the release of the site from the green belt. The Inspector commented:

*“The site is identified in the Council's Green Belt Review and site assessment work as performing a moderately important Green Belt role and where development may potentially have a detrimental impact on Green Belt function. However, the site is contained by built form on three sides and its relationship to the wider countryside is limited. The gap between Chidswell and Wakefield would be narrowed but a physical break would remain, and a clear new defensible Green Belt boundary would be formed by field boundaries on the south-east edge. In order to further strengthen this boundary and deliver a soft attractive edge to the development, the policy should be amended to require a landscaped buffer in this vicinity.*

*Overall, taking account of housing needs and the limited impact on the Green Belt, I conclude that exceptional circumstances exist to justify the removal of the site from the Green Belt. The access road through the site to [MXS7] would be provided via a new roundabout on Leeds Road, and the potential impact on the SRN should be assessed. The preparation of a masterplan is also necessary, given the scale of the scheme. These key constraints should be inserted in the policy in order to provide clarity and be effective. The number of potential dwellings should be adjusted from 279 to 280 to reflect the latest capacity work. Joint work will be necessary to deliver a roundabout and spine road, and therefore completions are unlikely to take place until 2020/21. The phasing table should be adjusted accordingly...”*

- 10.7 The site is within a wider mineral safeguarding area relating to surface coal resource (SCR) with sandstone and/or clay and shale. Local Plan policy LP38 therefore applies. This states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it. It is also noted that the applicant, in the submitted Minerals Statement, has concluded that the site is not suitable for the extraction of coal, and that the Coal Authority have advised that the site's Lower Haigh Moor Coal is not likely to be considered a valuable resource as the cost to extract it would be too great, and that the site's Top Haigh Moor Coal seam may not be valuable due to its quality and varying thickness, and the site's complex geomorphology.
- 10.8 Given the above, and notwithstanding local objections to the principle of development here, it is considered that the proposed residential use, and the principle of residential development at this site, is policy-compliant.
- 10.9 Other requirements of the Local Plan Inspector regarding this site (including in relation to the required landscaped buffer along the site's southern edge, access to the adjacent allocated site MXS7, highways impacts and masterplanning) are reflected in the wording of site allocation HS47, and are considered later in this report.

#### Quantum and density

- 10.10 To ensure efficient use of land Local Plan policy LP7 requires developments to achieve a net density of at least 35 dwellings per hectare, where appropriate, and having regard to the character of the area and the design of the scheme. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible with its surroundings, development viability would be compromised, or to secure particular house types to meet local housing needs. Kirklees has a finite supply of land for the delivery of the 31,140 new homes required during the Local Plan period, and there is a need to “sweat” allocated sites (having regard to all relevant planning considerations) to ensure the borough's housing delivery targets are met.
- 10.11 The 252 units initially proposed at this site fell short of the 280-unit indicative capacity set out in site allocation HS47 (and included at the request of the Local Plan Inspector).

- 10.12 While it is noted that the space needed for the spine road and the Owl Lane roundabout have reduced the developable area, there was considered to be scope for amendments to the proposed layout and to typologies that could have helped bring the quantum of development closer to the indicative capacity figure. Officers advised the applicant that apartments can be considered acceptable at this site, and that there are corner and nodal locations and places along the proposed spine road where two- or three-storey blocks of apartments would work very well in design terms, including in the context of the existing three-storey block of apartments at the north corner of Owl Lane and Windsor Road. Local Plan paragraph 3.5 acknowledges that, if identified housing needs are to be met, houses of all sizes are needed together with an increasing number of apartments. Several other recent major residential developments (and proposed developments) in Kirklees have included apartments, and the applicant team was encouraged to adopt a similar approach. The applicant was also asked to review the number of detached dwellings in the current scheme, to see if some could be replaced with more semi-detached dwellings and short terraces to help bring the total number of units closer to 280.
- 10.13 With the redesign of the scheme and the submission of amended drawings on 14/05/2020, the above concerns were addressed. The applicant proposed 280 dwellings, which represented an appropriate and efficient use of the site. The increase in unit numbers was achieved partly through the inclusion of 46 apartments. Of note, however, the 280-unit scheme included a high proportion of units that did not meet the minimum unit size figures set out in the Government's Nationally Described Space Standard.
- 10.14 In the most recent amendments, the proposed number of residential units has been brought back down. 260 units are now proposed. Much of this reduction is a result of fewer apartments now being proposed. Officers queried whether these apartments could be retained (but enlarged) in the amended scheme, however the applicant has advised that this would harm the scheme's viability, although no viability evidence has been provided to demonstrate this. Notwithstanding this matter, however, it is noted that that the space needed for the spine road and the Owl Lane roundabout have indeed reduced the developable area, and that 260 units represents 93% of the indicative site capacity (280 units). The applicant has also suggested that a reduction from 280 to 260 units may also help reduce the development's highway impacts, although it is considered that, given the numbers of units involved, any such effect is likely to be negligible.
- 10.15 With 260 units proposed in a site of 7.98 hectares, a density of 33 units per hectare would be achieved.
- 10.16 With all the above matters, and unit sizes and amenity matters (discussed later in this report) taken into account, it is recommended that the proposed quantum be accepted. Furthermore, it is noted that the proposed density comes close to meeting the requirement of policy LP7, and it is considered that the proposed quantum and density represent efficient use of the site.

## Sustainability and climate change

- 10.17 As set out at paragraph 7 of the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF goes on to provide commentary on the environmental, social and economic aspects of sustainable development, all of which are relevant to planning decisions.
- 10.18 The application site is a sustainable location for residential development, as it is relatively accessible and is on the edge of an existing, established settlement that is served by public transport and other facilities. Chidswell and Shaw Cross have a small number of shops, eating establishments, a church, two pubs, two petrol stations, social infrastructure, employment uses and other facilities, such that at least some of the daily, economic, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.19 Regarding climate change, measures would be necessary to encourage the use of sustainable modes of transport. Adequate provision for cyclists (including cycle storage and space for cyclists), electric vehicle charging points, a Travel Plan and other measures have been proposed or would be secured by condition. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and flood risk minimisation measures would need to account for climate change.
- 10.20 Given the surrounding range of uses, and the proximity of adjacent allocated sites, in accordance with Local Plan policy LP26 there appeared to be scope for the creation of a district heat or energy network for which provision (including leaving space for the future provision of pipework beneath footways) should be made. While no energy centre is proposed as part of the proposed development (which is entirely residential, and does not include a major daytime source of heat demand), the width of the proposed spine road (and its verge and shared cycle/footways) allows for later laying of heat distribution pipework without major disruption.
- 10.21 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

## Masterplanning, urban design, landscape and archaeological impacts

- 10.22 Chapters 11, 12 and 16 of the NPPF, the National Design Guide, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 are of particular relevance to this application in relation to design. Site allocation HS47 confirms that a masterplan is required for the site, and masterplanning is considered particularly necessary in this case given the size of the site, the scale of the proposed development, and the adjacent site allocation MXS7. Careful masterplanning can ensure efficient use of land, high quality placemaking and properly co-ordinated development, appropriate location of facilities and infrastructure, prevention of development sterilising adjacent land, appropriate phasing to limit amenity and highway impacts, and fair apportionment of obligations among the respective developers.

- 10.23 In some respects the site is relatively unconstrained, as there are no above-ground designated heritage assets within or immediately adjacent to the site, and the surrounding area does not exhibit a uniform character. This context gives the applicant some freedom to design a scheme that has a distinctive character of its own.
- 10.24 The site does, however, have some landscape sensitivities due to its topography, the fact that much of the site is visible from the southwest, and the site's location next to green belt land (in Wakefield borough) to the south. The water tower at Gawthorpe Reservoir is a local landmark visible from (and in longer views across) the site. There are also long, distant views of Castle Hill and Emley Moor mast available from the north part of the site.
- 10.25 With regard to the masterplanning requirements of site allocation HS47 and Local Plan policy LP5, the applicant team have engaged with the owners of the adjacent allocated site MXS7 (the Church Commissioners for England). Site access and road capacity considerations have informed the current proposals. The two applicant teams have discussed the detailed design of the spine road / Chidswell Lane junction with officers, to ensure a suitable vehicular connection can be made should site MXS7 be developed.
- 10.26 The proposed layout is generally considered acceptable. A perimeter block approach has been largely adopted, existing and proposed streets and new public spaces would be activated and overlooked, parking would not dominate the streetscene in most parts of the site, and new open space is proposed in appropriate locations.
- 10.27 The proposed layout does, however, trigger some concerns. Regarding the proposed spine road, while it is appreciated that this important east-west route has been designed to include an adequate carriageway width, as well as cycle/footways and verges, the additional space on some sides of the road would result in significant elevation-to-elevation distances (and inappropriate height-width ratios), such that parts of the road would lack adequate enclosure and definition. Of particular concern are the shared drives and landscaping in front of units 42 to 51 and units 70 to 79 which push these units far away from the elevations opposite. However, following the exploration of layout options and the consideration of alternative access and parking arrangements, it is accepted that the proposed setting back of these dwellings is necessary to ensure efficient use of land, adequate amenity for the residents of those dwellings, and acceptable plot layouts where parking areas are adequately overlooked.
- 10.28 Officers also suggested that the definition of the spine road could be further improved with the inclusion of two- or three-storey blocks of apartments at key locations, including the corners of the spine road and open spaces. It was also suggested that the site's main entrance (at the new roundabout proposed at Owl Lane), which is also expected to serve as a key entrance to the adjacent site MXS7, could also be better defined and strengthened by greater massing around it (subject to topography). The applicant responded positively to these suggestions, with three-storey dwellings and block of apartments introduced at some of the development's key nodal points in the previous 280-unit iteration of the proposals. These would have helped create a more memorable, legible development, with better definition along key routes. Together with the wider variety of house types that were proposed, these measures would have helped create a more navigable neighbourhood,

which is particularly important for people with cognitive impairments. It was therefore considered that the applicant had sufficiently addressed concerns regarding dementia-friendly design.

- 10.29 With the recent redesign and reduction in the number of units to 260, the previously-proposed three-storey apartment blocks have been removed from the site's key entrance at the proposed roundabout. In some respects, this is unfortunate, as that greater massing would have helped mark this key nodal point, and would have aided legibility. Kingsville and Woodcote units (which have an attic storey) are now proposed at the roundabout, however these are unlikely to have the same effect. It is, however, noted that their additional massing at roof level would at least distinguish them from other two-storey buildings, and that four three-storey Brentford houses are proposed at other corner/junction locations, such that, overall, a logical arrangement of massing would be introduced across the site.
- 10.30 The possibility of running an estate road along the south edge of the site was considered during discussions with the applicant team. The resultant dwelling-road-greenspace relationship could have provided an appropriate new edge to the settlement and would have enabled the creation of complete perimeter blocks, with dwellings facing out onto the adjacent green belt land (in Wakefield) without exposing their rear garden fences (which is potentially problematic in aesthetic and crime prevention terms). However, following the exploration of layout options with the applicant, given the topography and the planting proposed along the south edge of the site, and having regard to the need to make efficient use of the site, it was concluded that rear gardens can be considered acceptable along this site boundary. In order to comply with the "landscaped buffer" requirement of site allocation HS47, however, a generous strip of soft planting (including retained hedgerows) would need to be provided along this boundary, outside private curtilages. Arrangements for the maintenance and management of this planted strip would need to be secured in the required Section 106 agreement. Of note, the dark green strip shown here on drawing 1820-SI-04 rev M appears to extend into land beyond the application site, and therefore is not assumed to be a deliverable landscaped buffer – it is likely that land currently shown within the curtilages of units 144 to 162 would need to be used to provide this buffer.
- 10.31 Movement has been given sufficient consideration by the applicant team in the proposed layout, with clear cycle/footways provided through the site (segregated from the development's main trafficked route), and pedestrian routes following useful and legible alignments. The location of the proposed central open spaces could have been aligned with existing green spaces and footpaths immediately to the north of the site, to improve long views and wayfinding for pedestrians moving north-south, however this is not a significant concern.
- 10.32 The proposed development would certainly change the character and appearance of the site and its surroundings, as the existing agricultural field would become a new urban extension to Shaw Cross and Chidswell. Given the acceptable layout that is now proposed, and with appropriate landscaping, this change in character is not considered problematic, and wider landscape impacts (including impacts upon the setting of the unlisted landmark water tower at Gawthorpe Reservoir) would not be adverse.

- 10.33 Flood routing is an important consideration in relation to layout, and this matter is considered later in this report.
- 10.34 To ensure the site's Chidswell Lane frontage is not dominated by parking, it is recommended that one of the proposed visitor parking spaces (to the front of units 103 to 114) be replaced with soft landscaping. This amendment can be secured by conditions.
- 10.35 Regarding crime and anti-social behaviour, the West Yorkshire Police Designing Out Crime Officer has raised concerns regarding the potential for unauthorised access to rear gardens. Some rear and side ginnels were removed in the recent redesign, however several are still proposed. The need for these is understood – residents of mid-terrace dwellings are likely to want to be able to access their rear gardens without having to pass through their homes, for example when carrying out gardening jobs, or moving bicycles. To help address the concerns relating to potential crime committed via these ginnels, it is recommended that details of boundary treatments, and of gates to rear ginnels (to minimise public access to vulnerable parts of the proposed development) be secured by condition.
- 10.36 The Designing Out Crime Officer has also raised concerns regarding natural surveillance of rear parking spaces (for example at plots 13 to 17 of the since-superseded layout rev F). This has been partly addressed in the recent redesign, with rear garden gates added to (what are now) plots 1 to 11, for example. These, and the upper parts of the rear boundary treatments, can be designed to allow parked vehicles to be seen through them. It is recommended that these details be secured via the above-mentioned condition.
- 10.37 To address the other concerns of the Designing Out Crime Officer, conditions relating to lighting and secure by design are recommended.
- 10.38 Page 49 of the applicant's Design and Access Statement refers to inclusive design and Part M of the Building Regulations. Other than in the case of the proposed upper-floor apartments, all new units would have ground floor WCs, making those units at least visitable by people with certain disabilities. The inclusion of ground floor apartments in the scheme creates at least some opportunities for people with certain disabilities and older family members to move into the development, as does the inclusion of studies/bedrooms and convertible habitable rooms at ground floor level in some of the larger units.
- 10.39 Dwellings would be detached, semi-detached, or provided in short terraces or as apartments. 17 house types are proposed, along with four apartment types. Most buildings would be two storeys in height, with three-storey dwellings proposed in some locations. Although fewer house types are now proposed (23 were proposed in the previous 280-unit iteration of the scheme), the proposed variety in typologies would still bring sufficient interest to the street scene, and the proposed heights are considered appropriate given the two- and three-storey buildings opposite the site on the north side of Windsor Road, and the two-storey development (with a three-storey semi-detached pair close to Owl Lane) at the Amberwood Chase development.

- 10.40 The proposed material palette includes red and buff brick, artificial stone, and grey and red roof tiles. These are considered to be appropriate materials for this location, however further details of materials would need to be submitted at conditions stage.
- 10.41 Boundary treatments would include brick walls, railings and timber fencing. A since-superseded Enclosures Plan (drawing 1820-SI-02 rev B) illustrated various boundary treatments, and confirmed that the applicant had given consideration to the aesthetic impacts of the various boundary treatments – 1.8m timber fencing was to be largely confined to rear gardens, for example. As noted above, a condition requiring full details of boundary treatments is recommended.
- 10.42 Regarding the site’s potential archaeological interest, NPPF chapter 16 and Local Plan policy LP35 are relevant. The applicant’s Planning Statement asserts that the “Phase 2 Geo-Environmental Report and Minerals Statement provides evidence that the development proposals will not have any impact on known archaeology at the site”, however archaeology is not addressed in either the submitted Phase II Geo-Environmental Report or the applicant’s Minerals Statement. An Archaeology and Heritage Desk Based Assessment was submitted on 14/10/2020. This states that there are no known nationally-important archaeological remains located on the site that would prevent development, and adds that there is a low potential for archaeological deposits to be present on the site.
- 10.43 The West Yorkshire Archaeological Advisory Service have not commented on the application, but stated at pre-application stage:
- “...there are some crop marks of past activity in the vicinity (likely Iron Age and Romano-British) about 600m to the north and north-east (PRN 4542 and 4060). The easterly bulge on Chidswell Lane is interesting, too. The site itself was small fields in the 19th century (clearly derived from the medieval pattern), and a large building was present in its centre by 1948. A portion of the site has archaeological potential”.*
- 10.44 Upon submitting the Archaeology and Heritage Desk Based Assessment, the applicant proposed that trial trenching be conditioned and undertaken post-determination. This is considered reasonable, given the findings of the assessment.
- 10.45 In light of the above assessment, it is considered that the relevant requirements of chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7, LP24 and LP35 would be sufficiently complied with. There would also be an acceptable level of compliance with guidance set out in the National Design Guide.

Infrastructure requirements and delivery

- 10.46 Site allocation HS47 and Local Plan policy LP4 require the provision of necessary infrastructure to support the proposed development.

- 10.47 Work is being carried out by other applicant teams (in consultation with Highways England and adjacent local authorities) to ascertain what highway network improvements are needed to support various developments being brought forward in Chidswell and the surrounding areas. These requirements, including those that are necessitated by cumulative impacts, are likely to be significant. It is likely that responsibilities for addressing these requirements will need to be apportioned between the various developers of sites in Chidswell and the surrounding area.
- 10.48 In relation to the current application site, however, Highways England have withdrawn their earlier objection, and no longer expect the applicant to contribute to towards improvements to the Strategic Road Network.
- 10.49 The need for other highway and transport improvements (including junction improvements at Shaw Cross) is considered later in this report. At pre-application and application stages Cllr Lukic suggested that a cycle lane connection between the site and the Shaw Cross junction would be appropriate.
- 10.50 Regarding the social infrastructure currently provided and available in Shaw Cross and Chidswell (which is relevant to the sustainability of the proposed development), it is noted that local GP provision has been raised as a concern in many representations made by local residents. Although health impacts are a material consideration relevant to planning, there is no policy or supplementary planning guidance that requires a proposed development to contribute specifically to local health services. Furthermore, it is noted that funding for GP provision is based on the number of patients registered at a particular practice, and is also weighted based on levels of deprivation and aging population. Direct funding is provided by the NHS for GP practices and health centres based on an increase in registrations. Local education needs are addressed later in this report in relation to planning obligations.

#### Residential amenity and quality

- 10.51 Local Plan policy LP24 requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.52 Separation distances between the proposed dwellings and existing properties on the north side of Windsor Road would be adequate to ensure no unacceptable loss of natural light, privacy or outlook would occur. It is considered that the amenities of Chidswell Farm, The Huntsman PH, Boundary End Cottage and other properties on Chidswell Lane (including those two recently granted planning permission under application ref: 2020/91451) would not be unacceptably affected, due to the distances that would be maintained between existing and proposed elevations, the proposed locations of new windows, and the intervening highway. The design and locations of boundary treatments and landscaping would need careful consideration at conditions stage (should planning permission be granted) to ensure no significant loss of amenity occurs to neighbouring residents.

- 10.53 In terms of noise, although residential development would increase activity and movements to and from the site, given the quantum of development proposed, and the number and locations of new vehicular and pedestrian entrances that new residents would use to access the site, it is not considered that neighbouring residents would be significantly impacted. The proposed residential use is not inherently problematic in terms of noise, and is not considered incompatible with existing surrounding uses.
- 10.54 A condition requiring the submission and approval of a Construction (Environmental) Management Plan (C(E)MP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site, including cumulative amenity impacts should other nearby sites be developed at the same time. Details of dust suppression measures would need to be included in the C(E)MP. An informative regarding hours of noisy construction work is recommended.
- 10.55 The quality of the proposed residential accommodation is also a material planning consideration.
- 10.56 The 52 affordable housing units would comprise 14x one-bedroom apartments, 26x two-bedroom houses and 12x three-bedroom houses. The development's private element would comprise one one-bedroom house, 37x two-bedroom units (including five flats-over-garages), 126x three-bedroom houses and 44x four-bedroom houses. Notwithstanding concerns tenure considerations, this unit size mix would cater for a range of household sizes, would help create a mixed and balanced community, would help avoid visual monotony across the site, and is welcomed.
- 10.57 All but the five Alverton units would be dual aspect. All units would have adequate privacy, outlook and access to natural light. Dwellings would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Communal gardens are proposed for the apartments.
- 10.58 Adequate distances would be provided within the proposed development between new dwellings.
- 10.59 The provision of two central areas of open space, either side of the spine road, is welcomed. Splitting the development's main on-site provision in this way would mean residents (including children, people with disabilities, and older people) would not necessarily need to cross the spine road in order to access an open space. Other open spaces are proposed in appropriate locations, with a sizeable space proposed at the southwest corner of the site, and a small space (to be temporarily landscaped until adjacent development is carried out) proposed on Chidswell Lane.
- 10.60 The proposed 260 dwellings trigger a need for a Local Area for Play (LAP), a Local Equipped Area for Play (LEAP), and a contribution towards a Multi-Use Games Area (MUGA). The proposed informal play area shown in the northernmost open space can be regarded as a LAP, however it is recommended that details of its equipment and design be secured by condition. Those details would need to demonstrate how the LAP would be a multifunctional space that promotes children's independence in their own neighbourhood – this can be achieved partly by ensuring that this informal play opportunity is linked by safe networks of footpaths to play opportunities further afield, such as those at Smallwood Rd and Shaw Cross.

10.61 Notwithstanding this on-site provision, the applicant's proposals will still necessitate a financial contribution towards off-site open space. This must be calculated in accordance with Local Plan policy LP63, and the methodology set out in the draft Open Space SPD, taking into account the fact that Dewsbury East ward is deficient in natural and semi-natural green space, and allotments. For the proposed development, a contribution of £382,786 would be required. This would include funding for a LEAP and a contribution towards a MUGA. It is recommended that this contribution be secured in the required Section 106 agreement, along with provisions to secure details of the management and maintenance of open spaces.

#### Unit sizes

10.62 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate living space.

10.63 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.

10.64 At pre-application stage, officers expressed concern that not all of the proposed dwellings would meet the minimum unit size figures set out in the Government's NDSS guidance. The applicant, however, advised that full compliance with the Government's standards would not be proposed. As noted at the Strategic Planning Committee meeting of 28/10/2020, in the previous iteration of the proposals, 179 of the 280 proposed units would not have complied with the Government's standard. Using the lowest resident numbers set out in the NDSS, 28 of the affordable units would have complied (28 would have not), and 73 of the private units would have complied (151 would have not). This level of compliance was a key concern of Members and was one of the reasons for deferral on 28/10/2020.

10.65 Following the Strategic Planning Committee's decision to defer their decision, the applicant reconsidered the matter, and a greater level of NDSS compliance is now proposed. In the current, amended (260-unit) proposal, 209 units (80% of the total) would exceed NDSS. Most of the other 51 units (20%) are close to compliance and are larger dwellings. All 52 affordable units would exceed NDSS. A full breakdown of the proposed unit sizes is provided in the tables below, with figures in sqm (gross internal area). Grey shading highlights the non-compliant units.

## OPEN MARKET

| house type  | house type description      | number of units | sqm (GIA) | NDSS (GIA) |
|-------------|-----------------------------|-----------------|-----------|------------|
| SEVERN      | 1 BED SEMI-DET HOUSE        | 1               | 49        | 39         |
| WASHINGTON  | 2 BED SEMI-DET HOUSE        | 1               | 58        | 70         |
| DENFORD     | 2 BED SEMI-DET HOUSE        | 3               | 58        | 70         |
| KENLEY      | 2 BED SEMI-DET / TERR HOUSE | 28              | 78        | 70         |
| ALVERTON    | 2 BED FLAT OVER GARAGE      | 5               | 64        | 61         |
| MAIDSTONE   | 3 BED SEMI-DET / TERR HOUSE | 3               | 77        | 84         |
| KIRKBRIDGE  | 3 BED SEMI-DET HOUSE        | 44              | 85        | 84         |
| MORESBY     | 3 BED DET / SEMI-DET HOUSE  | 17              | 79        | 84         |
| DENBY       | 3 BED DET HOUSE             | 27              | 82        | 84         |
| LUTTERWORTH | 3 BED DET HOUSE             | 7               | 93        | 84         |
| KINGSVILLE  | 3 BED SEMI-DET TOWN HOUSE   | 19              | 100       | 90         |
| BRENTFORD   | 3 BED SEMI-DET TOWN HOUSE   | 4               | 108       | 90         |
| WOODCOTE    | 3 BED SEMI-DET TOWN HOUSE   | 5               | 113       | 90         |
| KINGSLEY    | 4 BED DET HOUSE             | 3               | 101       | 97         |
| KENNFORD    | 4 BED DET HOUSE             | 26              | 106       | 97         |
| HEMSWORTH   | 4 BED DET HOUSE             | 12              | 107       | 97         |
| ALDERNEY    | 4 BED DET HOUSE             | 3               | 114       | 97         |

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## AFFORDABLE

|            |                             | number of units | sqm (GIA) | NDSS (GIA) |
|------------|-----------------------------|-----------------|-----------|------------|
| 58         | 1 BED APARTMENT             | 1               | 40        | 39         |
| 59         | 1 BED APARTMENT             | 1               | 48        | 39         |
| 60         | 1 BED APARTMENT             | 6               | 42        | 39         |
| 61         | 1 BED APARTMENT             | 6               | 42        | 39         |
| KENLEY     | 2 BED SEMI-DET / TERR HOUSE | 26              | 78        | 70         |
| KIRKBRIDGE | 3 BED HOUSE                 | 12              | 85        | 84         |

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- 10.66 The applicant has pointed out that, of the 51 units (20% of the total) that don't comply with NDSS, 27 are within 2sqm, 17 are within 5sqm and three are within 7sqm of the standards. These 47 units are all 3-bedroom in size, and are larger properties which, overall, would provide an acceptable standard of amenity. The applicant has additionally pointed out that, overall, 256 of the proposed 260 units either exceed the NDSS standard or are within 7sqm of the standard. In comparison with the previous iteration of the proposals, the applicant has more than doubled the number of compliant units. Officers have queried whether more of the units could be made compliant (for example, adding just 2sqm to the Denby units would result in another 27 units being compliant), however the applicant has advised that this is not possible for viability reasons (although no supporting viability evidence has been submitted by the applicant).

- 10.67 These amendments are considered to be a significant improvement on the previous proposals, and – noting the other matters that influence amenity (including outdoor space, outlook and natural light, considered earlier in this report), and again noting the policy position in relation to NDSS, as well as paragraph 018 of the “Housing: optional technical standards” section of the Government’s online Planning Practice Guidance (ref: 56-018-20150327) – it is considered that the proposals are acceptable in relation to unit sizes.

#### Affordable housing

- 10.68 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. A 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. Given the need to integrate affordable housing within developments, and to ensure dwellings of different tenures are not visually distinguishable from each other, affordable housing would need to be appropriately designed and pepper-potted around the proposed development.
- 10.69 52 affordable units are proposed. This represents a 20% provision, in compliance with policy LP11.
- 10.70 The 52 affordable housing units would comprise 14x one-bedroom apartments, 26x two-bedroom houses and 12x three-bedroom houses. These would be distributed around the site in several locations (to be illustrated in the committee presentation).
- 10.71 KC Strategic Housing had previously advised that there is significant demand for affordable one-, two- and three-bedroom homes (and larger) in the area, and it is considered that a reasonable number of one-bedroom apartments can indeed be accepted within the proposed development’s affordable housing provision. The proposed affordable unit size mix is therefore considered acceptable.
- 10.72 Given the recent reduction in the number of apartments within the affordable element, the inclusion of five private apartments (as flats-over-garages) in the scheme, the affordable house types (Kewdale and Kirkbridge) also being proposed in the private element, the acceptable unit size mixes of the affordable and private elements, and the inclusion of intermediate tenures within the affordable element, there is no longer a concern that the affordable units would be clearly distinguishable from the market housing in terms of typology, design, and standard of amenity. Furthermore, although there would be a slight concentration of affordable units at Chidswell Lane, overall it is considered that the recently-improved distribution represents sufficient tenure pepper-potting. At page 48 of the submitted Design and Access Statement the applicant states that “The affordable dwellings will be indistinguishable from the open market units by having the same appearance and finish, and being built from the same materials as the market plots” – with the recent amendments, this assertion is now accurate.
- 10.73 Within affordable housing provisions, a 55% social or affordable rent / 45% intermediate tenure split is normally required, however flexibility can be applied in light of material considerations. On 18/01/2021 the applicant confirmed the proposed tenure split as 75% (39 units) Discounted Market Sale, and 25% (13 units) affordable rent. Having regard to the headline 20% affordable housing figure, the significant Section 106 obligations required,

and the applicant's commentary regarding viability (although it remains the case that no financial viability appraisal has been submitted), the proposed tenure split is considered acceptable.

#### Highway and transportation issues

- 10.74 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.75 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe.
- 10.76 Existing highway conditions must be noted. Owl Lane (the B6128) forms the site's west edge, and has footways on both sides of the carriageway, double yellow lines, bus stops, a 40mph speed restriction (reducing to 30mph north of the site's northeast corner) and access points to the Dewsbury Rams ground and the relatively recent Amberwood Chase residential development. To the north, part of Windsor Road also has double yellow lines, as well as speed humps and bus stops. Chidswell Lane has signage indicating it is unsuitable for heavy goods vehicles, has a substandard footway on the west side of its carriageway, and lacks central white line markings for much of its length outside the site. The site itself has no dropped kerbs on Owl Lane or Windsor Road, and there is a single, gated vehicular access on Chidswell Lane opposite Chidswell Farm. The nearest cycle lanes (or painted markings for cyclists) are on Leeds Road and Challenge Way. No public rights of way cross the site.
- 10.77 Site allocation HS47 requires the proposed development to provide access to the adjacent site MXS7, the provision of a roundabout on Owl Lane, and a no-right-turn restriction onto Chidswell Lane. It adds that additional mitigation on the wider highway network will be required, noting that development of this site has the potential for a significant impact on the Strategic Road Network and that measures will be required to reduce and mitigate that impact. Where committed schemes will not provide sufficient capacity or where Highways England does not have committed investment, the proposed development may need to contribute to additional schemes identified by Highways England and included in the Infrastructure Delivery Plan (IDP) or other appropriate schemes.
- 10.78 For a 275-unit residential development at the site, the applicant's Transport Assessment predicted 190 vehicular movements in the a.m. peak (42 arrivals and 148 departures) and 181 in the p.m. peak (110 arrivals and 71 departures). Taking into account traffic growth projections up to the year

2030, and trips likely to be generated by development at the adjacent site MXS7, the applicant concluded that the new roundabout, the Leeds Road / Chidswell Lane junction, and the Owl Lane / Windsor Road junction would operate within capacity. The Leeds Road / Challenge Way / John Ormesby VC Way junction (the Shaw Cross junction) is predicted by the applicant to reach overcapacity with or without the proposed development, and the applicant concludes that the addition of a small amount of development traffic would not create a material or significant difference to the without-development scenario. Impacts are also predicted at the Owl Lane / John Ormesby VC Way / Churwell Vale (Horace Waller VC Parade) junction and the Owl Lane / A638 / Leeds Road / Chancery Road junction. In conclusion, the applicant asserted that the proposed development can be accommodated on the adjacent highway network without any significant negative impact, and that there are no highway capacity reasons why planning permission should not be granted.

10.79 Following the Strategic Planning Committee's deferral on 28/10/2020, the applicant submitted an annotated plan, summarising the applicant's predicted increases in peak-hour traffic at junctions surrounding the site, taking into account expected background growth and the cumulative impacts of committed development. This plan will be included in the committee presentation, and notes the following increases:

- Leeds Road / Chidswell Lane junction – 1.8% increase
- Owl Lane / Windsor Road junction – 5.4% increase
- Shaw Cross junction – 2.4% increase
- Owl Lane / John Ormesby VC Way / Churwell Vale (Horace Waller VC Parade) junction – 4.8% increase
- Owl Lane / Amberwood Chase junction – 3.1% increase
- Owl Lane / A638 / Leeds Road / Chancery Road junction – 1.5%

10.80 At the Strategic Planning Committee meeting of 28/10/2020, Cllr Scott noted that residents of Amberwood Chase currently have difficulties turning right into Owl Lane, due to existing traffic levels. Of note, the proposed provision of a new roundabout would mean those residents wouldn't need to make this turn in the future, and could instead turn left and then drive around the new roundabout to continue their journey southwards, without having to detour significantly.

10.81 The applicant's conclusions regarding the impact of the proposed development on existing junctions are not fully accepted. Using more robust calculations and assessment, officers predict impacts at the Shaw Cross junction that would require mitigation in the form of major junction improvements, a design for which has been prepared by officers (and which is currently being amended to include better provision for cyclists, in response to Cllr Lukic's comments). The applicant has agreed to contribute £200,000 to these works, and it is recommended that the contribution be secured via a Section 106 planning obligation.

10.82 A further planning obligation, securing the provision of a cycle lane connection between this junction (where the Challenge Way cycle lane ends) and the application site is also recommended.

- 10.83 Further afield, the proposed development would contribute towards additional traffic at junction 28 of the M62 and junction 40 of the M1. The applicant's assessment indicates that there will be no more than 28 additional two-way trips at either of these junctions during the morning and afternoon/evening peak periods. In light of these findings, Highways England have withdrawn their earlier objection, and no longer expect the applicant to contribute to towards improvements to the Strategic Road Network.
- 10.84 The proposed development includes the provision of a new roundabout on Owl Lane, connecting a new east-west spine road with the eastern edge of the site (where it would meet Chidswell Lane). The provision of this spine road, and its ultimate connection to Leeds Road should development be approved at the adjacent allocated site MXS7, is considered essential for the proper distribution of traffic, and to avoid unacceptable congestion at the Shaw Cross junction and along the northern section of Chidswell Lane. Additionally, it would provide access to the Local Centre, primary school and other facilities required at site MXS7, and the respective applicant teams have accordingly designed their schemes around this requirement. The spine road would essentially be a residential collector road – it has a design speed of 25mph, and it would be capable of accommodating buses (should routes be diverted along it, or new routes be provided), but for amenity, safety and placemaking reasons HGVs would not be accommodated, and the spine road would not be signed at either end as a through-route to Leeds or Ossett.
- 10.85 Following amendments made by the applicant to the design of the proposed roundabout and the detailed design of the spine road (including widening where requested), these aspects of the proposed development are considered acceptable. Both would be capable of accommodating the traffic volumes of the proposed development and the anticipated development at allocated site MXS7, having regard to predicted background traffic increases. The applicant has submitted diagrams confirming that two 11.85m refuse vehicles, or two buses, or one of each, would be able to pass each other on the spine road.
- 10.86 The comments of Cllr Lukic regarding provisions for cyclists, and the guidance set out in Cycle Infrastructure Design – Local Transport Note 1/20 (LTN 1/20), are noted, and have been discussed with the applicant team. Although no policies in the Local Plan or guidance in the council's Highway Design Guide SPD explicitly require the provision of separate cycle ways and footways, Cllr Lukic has correctly noted that Key Design Driver 3 in the SPD states that assessment of provisions for cyclists should be informed by the detailed guidance within LTN 2/08, which is now superseded by LTN 1/20.
- 10.87 The need for, and relative benefits of, full separation of pedestrian and cyclist traffic has been given careful consideration, however it is considered that the proposed 3m wide shared cycle/footways, separated from the carriageway by a soft landscaped verge, are appropriate. Of note, the proposals would segregate cyclists and pedestrians from the spine road's vehicular traffic, which would ensure much safer travel for those more vulnerable road users – the shared cycle/footways are expected to be used by slow-moving, less confident cyclists, including older people and children. Faster, more competent and confident cyclists are considered more likely to use the carriageway of the spine road (sharing that space with vehicular traffic), as

their journey would not be interrupted by side streets, and as noted above the spine road would essentially be a residential collector road (where HGVs would be excluded, although buses may be present), with a design speed of 25mph. Similarly, the proposed 3m wide shared cycle/footways along the site's Owl Lane frontage are considered acceptable, and would continue the connection to the Shaw Cross junction and Challenge Way referred to at paragraph 10.82 above.

- 10.88 Regarding the continuation of the cycle/footways at the edges of the site and across side street entrances, this matter can be addressed at conditions stage, along with the details required of the development's internal adoptable roads. A variety of measures can be used to ensure continuity of cycle routes and priority at crossovers is provided, including signage, road markings and continuous road surfaces.
- 10.89 Wakefield Council have advised that Chidswell Lane is an advisory cycle route, and Cllr Lukic has commented on the suitability of Chidswell Lane and Windsor Road for cycling. Officers agree that carriageway cycling can continue on these streets, and Highways Development Management officers have suggested that a 20mph speed limit to Windsor Road could be supported (although this is not proposed as part of the current scheme, and the applicant proposes another 3m wide shared cycle/footway along Windsor Road, which, it is again noted, would be suitable for use by slower and less confident cyclists).
- 10.90 It is recommended that details of spine road crossing points be provided at conditions stage, under the same recommended condition that requires details of the development's internal adoptable roads.
- 10.91 No vehicular connection between the new east-west spine road and Chidswell Lane is proposed at this stage – such a connection would be provided should the adjacent site MXS7 be developed. In the meantime, it is recommended that this end of the spine road be temporarily blocked with a raise kerb to footway level and bollards. To avoid a ransom scenario being created, no land between the carriageway of the spine road should be left unadopted, and detailed drawings (to be secured by recommended condition) and planning obligations would be required to confirm this.
- 10.92 As a vehicular connection would be required here if/when the adjacent site MXS7 is developed, extensive discussion has taken place between the two applicant teams, and with officers at Wakefield Council, regarding the design of the spine road / Chidswell Lane junction.
- 10.93 The requirements of site allocations HS47 and MXS7 are noted – these require the banning of right and left turns into the southern stretch of Chidswell Lane, which are requirements supported by Wakefield Council. The concern is that southwestbound drivers using the spine road may see queueing traffic at the new Owl Lane roundabout, and may decide to turn into Chidswell Lane to reach Ossett and other destinations via Gawthorpe. There is a secondary concern that northbound drivers on Owl Lane may see queueing traffic at the new roundabout and may try to cut through Gawthorpe via Pickering Lane and Chidswell Lane. Wakefield Council officers have commented that the southern section of Chidswell Lane, due to its narrow carriageway and traffic calming, is not suited to take additional traffic. Peak hour queueing figures provided by the applicant suggest that

queue lengths would not be significant (maximums of three or four vehicles are predicted), and this together with Chidswell Lane not being particularly attractive as a through-route suggests that rat-running would be unlikely, or would only become a problem when an incident occurs on the spine road or Owl Lane. Nevertheless, the requirements of the site allocations, and the concerns of Wakefield Council need to be addressed.

- 10.94 Officers and the two applicant teams have considered junction designs that would not significantly restrict access to the Huntsman PH, Boundary End Cottage and other properties on Chidswell Lane south of the spine road, that would not cause rat-running along Chidswell Lane between the spine road and Leeds Road, and that could be accommodated within existing highway land and land available within the two development sites. Officers favour a simple T-junction (a crossroads is not considered appropriate here (except in relation to cycle traffic), and the stopping up of the northern section of Chidswell Lane is supported) with signs banning left and right turns. This is considered preferable to physical barriers, which would restrict access to existing and proposed properties, and would force residents and pub-goers to make unnecessarily long detours via the spine road, Owl Lane and Pickering Lane. It is considered that a signed solution would be compliant with the requirements of site allocations HS47 and MXS7, and would be sufficient to discourage rat-running down the southern section of Chidswell Lane. However, it is recommended that the adequacy of this solution be monitored, and that physical measures (such as enforcement cameras and/or the provision of a plug prioritising northbound traffic) be considered at a later stage if the signed solution proves unsuccessful. The cost of this monitoring, and a contribution towards subsequent measures (if required) is included in the recommended Section 106 heads of terms.
- 10.95 Following the Strategic Planning Committee's deferral on 28/10/2020, drawings of the spine road / Chidswell Lane junction (showing the interim arrangements, and the final layout should site MXS7 be developed) were submitted by the applicant. The Church Commissioners for England (the adjacent applicants) have confirmed they are comfortable with the proposed spine road geometry, its alignment with the access to site MXS7, and the applicant's commitment to build the spine road to the public highway on Chidswell Lane.
- 10.96 The current applicant would be responsible for stopping up the northern section of Chidswell Lane, the provision of a turning head (in the small area currently proposed as temporary open space), and connecting the end of the spine road to Chidswell Lane by removing any temporary kerbs and bollards, and making good the carriageway surface. These matters are also included in the recommended Section 106 heads of terms. In light of Cllr Lukic's comments, and Wakefield Council's comment that Chidswell Lane is an advisory cycle route, the stopping up of the northern section of Chidswell Lane will need to allow for continued north-south cycle traffic.
- 10.97 Acceptable off-street parking, including visitor parking, is proposed for the residential units in accordance with Council's Highway Design Guide. Paragraph 5.4 of the Council's Highway Design Guide sets out numbers of spaces commonly provided for apartments and houses of various sizes, and states that in most circumstances, one visitor parking space per four dwellings is considered appropriate.

- 10.98 Officers have provided detailed comments regarding the internal layout of the proposed development, and in relation to Section 38 matters. A condition regarding internal adoptable roads is recommended.
- 10.99 Along the southern section of Chidswell Lane, the applicant proposes a 2m wide footway to the west side of the carriageway (where no footway currently exists). This improvement would be of public benefit.
- 10.100 Although no turning head is proposed along the southern section of Chidswell Lane, vehicles could make use of the parking court proposed for units 116 to 122 for turning, however the council's refuse collection vehicles are likely to continue reversing southwards from the Huntsman PH to access Boundary End Cottage (and, in the future, proposed units 103 to 114).
- 10.101 A draft Travel Plan has been submitted. This sets out measures intended to encourage the use of sustainable modes of transport. A Section 106 planning obligation is necessary to ensure this (or an acceptable amended) Travel Plan is implemented. A Travel Plan monitoring fee of £10,000 will also be necessary.
- 10.102 Although the application has been advertised as a development affecting a public right of way, no such routes cross the site. On the opposite side (from the site) of Chidswell Lane, public footpath DEW/146/10 extends from the carriageway, through the pub garden of The Huntsman PH, towards the Kirklees/Wakefield borough boundary and beyond to Gawthorpe. This public right of way would not be affected by the proposed development, except in respect of potential increased use. The proposed layout allows for pedestrian movement across Windsor Road and through the streets of the proposed development in accordance with Local Plan policies LP20, LP24dii and LP47e.
- 10.103 Details of secure, covered and conveniently-located cycle parking for residents would be secured by a recommended condition.
- 10.104 Storage space for three bins, and refuse collection points, will be required for all dwellings. Further details of waste collection, including details of management to ensure waste collection points are not used for fly-tipping or permanent bin storage, are required by recommended condition. The same condition would require refuse collection points in locations that would not obstruct access to private driveways.
- 10.105 Details of means of access to the site for construction traffic would be secured via the recommended condition requiring the submission and approval of a Construction Management Plan.

#### Flood risk and drainage issues

- 10.106 The site is within Flood Zone 1, however there is some risk of surface water flooding at the lowest (southernmost) corner of the site. A watercourse runs along the site's southern boundary, and then passes beneath Owl Lane, entering Wakefield borough at it continues southwards, then re-enters Kirklees as it continues towards Chickenley and eventually joins the River Calder. No water bodies exist on the site. There are Yorkshire Water sewers beneath Owl Lane and Windsor Road.

- 10.107 Regarding surface water, the applicant's initial Foul and Surface Water Drainage Strategy stated that details of surface water disposal would be submitted following further infiltration testing and calculation, however the submitted Planning Statement assertively states that infiltration is not suitable for this site, and consequently it is envisaged that surface water would discharge to the watercourse located in the south-western corner of the site. The Lead Local Flood Authority (LLFA) have, in any case, advised that soakaways can be ruled out at this site.
- 10.108 Details of a drainage strategy were submitted shortly before the committee meeting of 28/10/2020 and following the Strategic Planning Committee's resolution to defer its decision, the applicant has submitted further information. A downstream survey of the existing watercourse has been carried out, and the LLFA have advised that this is fit for purpose, and that surface water from the site can be discharged to it.
- 10.109 The applicant proposes an attenuation tank beneath the development's southernmost open space, from which water would be discharged at a controlled rate (of 22 litres per second) to the existing watercourse to the south. The LLFA have advised that this proposed attenuation and discharge rate are acceptable.
- 10.110 A trash screen already exists where the watercourse passes beneath Owl Lane. Subject to an assessment of its adequacy, an improved trash screen may need to be installed here, and it is recommended that this be secured by condition.
- 10.111 The LLFA have advised that two outstanding matters need to be resolved before their objection can be withdrawn, as follows:
- 1) Blockage scenario testing – A full blockage scenario of the trash screen should be analysed, as should the design of the trash screen itself. An assessment of the weir point where water would naturally spill out of the site is required. This level should then be plotted within the application site to ascertain what area would be flooded in a full blockage scenario.
  - 2) Flood routing – In order to produce a comprehensive flood risk assessment, it should be demonstrated that the proposed highway layout can support safe flood routing to the southern boundary that avoids property curtilage. No property should be located in a basin and pose a flood risk. Further detail of levels required.
- 10.112 On 15/01/2021 the applicant responded to the above matters, and submitted a Drainage Exceedance / Flood Routing Plan (ref: CHD\_FE\_01). The LLFA's comments on this plan are awaited.
- 10.113 The maintenance and management of the approved surface water drainage system (until formally adopted by the statutory undertaker) would need to be secured via a Section 106 agreement. The applicant has been advised that spans of 900mm or more beneath the highway are likely to preclude its adoption.
- 10.114 Details of temporary surface water drainage arrangements would be secured via a recommended condition.

- 10.115 Foul water from the proposed development would discharge to the existing sewer beneath Owl Lane. This proposal has not attracted an objection from Yorkshire Water, and is considered acceptable.

Environmental and public health

- 10.116 Regarding noise, the applicant submitted additional information during the life of the application to address concerns regarding noise from the nearby Dewsbury Rams ground. In light of the applicant's information, KC Environmental Health have advised that a condition requiring noise mitigation measures should be applied, and that the mitigation measures, when submitted, will need to be based on the final site layout.
- 10.117 When deferring their decision on 28/10/2020, Members of the Strategic Planning Committee asked to see details of mitigation measures relating to Dewsbury Rams and car boot sale noise. In response, the applicant has stated that their glazing specification and adequate boundary treatments would ensure adequate mitigation in relation to noise from those sources (of note, tree planting along Owl Lane would do little to prevent noise reaching the new dwellings). Further comment from KC Environmental Health has been sought, however officers are in any case of the view that the matter has been sufficiently addressed at application stage, and recommend that an appropriately-worded condition should be applied to ensure that the "agent of change" principle set out at paragraph 182 of the NPPF is adequately responded to.
- 10.118 With regard to the West Yorkshire Low Emission Strategy, a condition is recommended, requiring the provision of electric vehicle charging points. In addition, it is recommended that a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies, be secured via Section 106 obligations.
- 10.119 The applicant's proposed dust and emission measures for the development's construction phase are satisfactory – it is recommended that these be conditioned.
- 10.120 The proposed residential use is unlikely to be a significant source of odour affecting adjacent residential properties.
- 10.121 It is considered that the development is likely to have some adverse impact on the local air quality. This level of impact needs to be determined by the applicant, and an appropriate condition is recommended, along with a planning obligation securing a contribution (amount to be confirmed) up to the development's estimated damage cost. This would be spent on air quality improvement projects within the locality.
- 10.122 When deferring their decision on 28/10/2020, Members asked to see details of air quality mitigation measures. The applicant subsequently provided a written response, stating that the proposed provisions (electric vehicle charging points and a Travel Plan) are adequate, and that no further air quality mitigation is necessary. Further comment from KC Environmental Health has been sought, however it is noted that KC Environmental Health have previously advised that appropriately-worded conditions should be applied in relation to air quality.

- 10.123 On 28/10/2020 Members also raised concerns regarding light pollution, and what measures could be implemented to address potential amenity impacts caused by lighting at Dewsbury Rams ground. The intervening distance (between the rugby ground's floodlights and the front elevations of dwellings proposed along Owl Lane) is noted, however to address Members' concerns, the applicant proposes tree planting along Owl Lane – there is sufficient space to provide this without adversely affecting natural light and outlook for the occupants of the proposed dwellings. The recommended landscaping condition can ensure that semi-mature, and possibly in some cases evergreen, trees are planted here.
- 10.124 There is a high potential for noise, vibration and artificial light associated with the development of the site to have a significant adverse impact on nearby residents. It is recommended that the Construction Management Plan (to be secured by condition) be required to demonstrate how these adverse impacts would be minimised.
- 10.125 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed affordable housing, cycling provision, pedestrian connections (which can help facilitate active travel), accessibility, dementia-friendly design, measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health. The applicant has submitted a Health Impact Assessment. The council's Public Health team have raised no objection in principle to the proposed development and have expressed support for some aspects of it.

#### Site contamination and stability

- 10.126 Site allocation HS47 states that the site is potentially contaminated. KC Environmental Health officers have advised that the applicant's Preliminary Risk Assessment is an adequate phase 1 report. The applicant's phase 2 report is largely satisfactory, however it does not consider the potential combustibility of the site's soils which contain coal gravel. A revised report or addendum is therefore required – this should include an assessment of the potential combustibility of the soils at different parts of the site so that a future remediation strategy can, if necessary, include remediation measures to address any combustibility issue. It should also provide more detailed information regarding the reasons for the depleted oxygen levels and the risks that this presents. Conditions regarding contaminated land are considered necessary.
- 10.127 When deferring their decision on 28/10/2020, Members raised concerns regarding the above-mentioned combustible soils. In response, the applicant provided supplementary information (Groundtech Consulting letter, dated 19/11/2020), stating:

*“If colliery spoil was encountered on the site which is combustible or potentially combustible, testing would be undertaken. However, no colliery spoil has been encountered on this site that warrants combustibility testing.”*

*Coal seams are however present beneath the site and we know coal is combustible, so where coal is encountered measures will need to be in place to isolate this potential combustible material. Measures should be implemented in accordance with ICRCCL 61/84, they broadly comprise the following:*

- 1. Removal of combustible material.*
- 2. Isolate combustible material from potential ignition sources.*

*It is recommended that where coal seams are exposed during general excavations or at the surface, they should be isolated with 1000mm of clay material or material with similar properties to isolate the combustible material. This specifically applies to utility excavations where electricity cables will be laid”.*

- 10.128 Given the above assurances and given the previous recommendations of KC Environmental Health (and the common practice of securing phase 2 reports at conditions stage), it is recommended that matters relating to combustible soils have been adequately addressed at application stage.
- 10.129 Part of the site is within a Development High Risk Area as defined by the Coal Authority. The Coal Authority have not objected to the proposed development and have advised that an adequate assessment of the site's coal mining risks has been undertaken. Conditions relating to the site's coal mining legacy are recommended.

#### Trees, landscaping and biodiversity

- 10.130 Although the site itself is not within a Wildlife Habitat Network, this designation includes a small area woodland to the east of the site on the other side of Chidswell Lane, and trees outside the Dewsbury Rams ground.
- 10.131 The site is within a Biodiversity Opportunity Zone (Pennine Foothills), however it is in relatively intensive agricultural use and its potential for supporting protected species is limited. The site is, however, surrounded by hedgerows, which offer habitat potential, and which should be retained wherever possible. Any loss of perimeter hedgerow will need to be compensated for, and the planted buffer required by site allocation HS47 at the southern boundary could include gap planting. Amended drawings illustrating such planting will need to be submitted as part of a comprehensive landscaping scheme to be secured via a recommended condition.
- 10.132 In addition, a net biodiversity gain needs to be demonstrated in accordance with Local Plan policy LP30 and chapter 15 of the NPPF. Such a gain has not yet been demonstrated by the applicant. Net gain is measurable, and the degree of change in biodiversity value can be quantified using a biodiversity metric. A condition and Section 106 obligations are recommended, requiring the applicant to provide the necessary calculation, and to explore all options for on-site compensatory works. If adequate compensatory works cannot be achieved on-site, the applicant must look for nearby, available sites where compensatory works can be implemented with the agreement of the relevant landowner. If no such sites can be found by the applicant, a financial contribution can be made which the council would be required to spend on compensatory measures at an available site.

- 10.133 In light of Members' queries raised on 28/10/2020, the applicant intends to submit further landscaping details and a biodiversity net gain calculation before the current application is determined.
- 10.134 A condition requiring the submission of an Ecological Design Strategy / Landscape Environmental Management Plan is also recommended.
- 10.135 No significant trees exist on the site, and no trees immediately adjacent to the site (within Kirklees) are protected by Tree Preservation Orders. Development of the site presents an opportunity to increase tree coverage in this part of Kirklees.

#### Representations

- 10.136 To date, a total of 288 representations have been received in response to the council's consultation and reconsultation. Representations were also made by Cllr Lukic and the Chidswell Action Group. The comments raised have been addressed in this report.

#### Planning obligations

- 10.137 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

- 1) Affordable housing – 52 affordable housing units (75% (39 units) Discounted Market Sale, 25% (13 units) affordable rent) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £382,786 to address shortfalls in specific open space typologies.
- 3) Education – Contribution required (amount to be confirmed).
- 4) Highway improvements – Contribution of £200,000 towards Shaw Cross junction improvements, and provision or funding of cycle lane linking the site to Challenge Way.
- 5) Chidswell Lane / spine road junction – Funding of future works to junction when development at site MXS7 is brought forward. No ransom scenario to be created. Northern section of Chidswell Lane to be stopped up and provided with a turning head. Signed restrictions on right and left turns to be provided. Contribution towards monitoring of effectiveness of signed restrictions, and later works if necessary.
- 6) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring.
- 7) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).
- 8) Biodiversity – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 9) Air quality – Contribution (amount to be confirmed) up to the estimated damage cost to be spent on air quality improvement projects within the locality.

- 10.138 The Community Infrastructure Levy (CIL) is not yet adopted in Kirklees, therefore the council is unable to secure contributions at CIL rates at this stage.
- 10.139 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers have asked the applicant to agree to provide a training or apprenticeship programme to improve skills and education. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. For this application, the applicant has confirmed that any developer partner would be expected to maximise opportunities for apprenticeships, the employment of long-term jobseekers, and training. Officers have suggested that an Employment and Skills Agreement be entered into.
- 10.140 At the Strategic Planning Committee meeting of 28/10/2020, Cllr Eric Firth requested confirmation that the allocation of apprenticeships (during construction at this site) would involve Dewsbury College. The applicant has advised that local people would be welcome to apply for apprenticeships, but that a formal arrangement with Dewsbury College would not be possible, as Barratt Homes already have national and Yorkshire-wide arrangements for allocating apprenticeships, which in some cases involves apprentices travelling to sites outside their boroughs and working at more than one site during their apprenticeships.

#### Other planning matters

- 10.141 Given the council's consultation and reconsultation (detailed above), the number of responses received, the work of Members in their respective wards, and press coverage, officers are of the view that there is good public knowledge of the proposed development and the current planning application.
- 10.142 The applicant's motives for submitting a planning application are not material planning considerations.
- 10.143 A condition removing permitted development rights from some of the proposed dwellings is recommended. This is considered necessary for the dwellings proposed with smaller gardens, as extensions under permitted development allowances here could reduce the private outdoor amenity spaces to an unacceptable degree.

### **11.0 CONCLUSION**

- 11.1 The application site is allocated for residential development under site allocation HS47, and the principle of residential development at this site is considered acceptable.
- 11.2 The proposed development has relatively few shortcomings that would attract negative weight in the balance of relevant planning considerations. The proposed development's benefits (including the provision of 260 dwellings of which 52 would be affordable homes, construction-phase employment, planning obligations that would benefit the public as well as residents of the development, and the required biodiversity net gain), however, attract significant positive weight.

- 11.3 The site has constraints in the form of adjacent residential development (and the amenities of these properties), adjacent developable land, topography, drainage, ecological considerations, and other matters relevant to planning. These constraints have been sufficiently addressed by the applicant, or can be addressed at conditions stage.
- 11.4 Approval of full planning permission is recommended, subject to conditions and planning obligations to be secured via a Section 106 agreement.
- 11.5 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions, it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

**12.0 CONDITIONS (summary list – full wording of conditions, including any amendments/ additions, to be delegated to the Head of Planning and Development)**

1. Three years to commence development.
2. Development to be carried out in accordance with the approved plans and specifications.
3. Submission of a Construction (Environmental) Management Plan.
4. Submission of details of temporary drainage measures.
5. Submission of details of temporary waste collection and storage (should development be phased, and/or dwellings become occupied prior to completion of the development).
6. Provision of site entrance and visibility splays prior to works commencing.
7. Archaeological trial trenching prior to commencement.
8. Submission of interim and final details of spine road / Chidswell Lane junction.
9. Submission of details relating to internal adoptable roads, cycling provision and crossings.
10. Cycle parking provision to be provided within the site.
11. Provision of Electric Vehicle charging points (one charging point per dwelling with dedicated parking).
12. Provision of waste storage and collection.
13. Coal Mining Legacy – development to be in accordance with the content and conclusions of the Geo-environmental Investigation Report.
14. Submission of trash screen details and related drainage information.
15. Submission of an Intrusive Site Investigation Report (Phase II Report).
16. Submission of Remediation Strategy.
17. Implementation of Remediation Strategy.
18. Submission of Validation Report.
19. Submission of a noise report specifying measures to be taken to protect future occupants of the development from noise
20. Submission of air quality assessment and details of mitigation measures.
21. Submission of details of crime prevention measures.
22. Submission of details of external materials.
23. Submission of details of boundary treatments.

24. Submission of details of external lighting.
25. Submission of full landscaping scheme, including soft landscaping in front of units 103 to 114.
26. Submission of full details of open space and playspace.
27. Biodiversity enhancement and net gain.
28. Submission and implementation of an Ecological Design Strategy / Landscape and Ecological Management Plan.
29. Removal of permitted development rights.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f92787>

Certificate of Ownership – Certificate B signed

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2019/93658 Erection of 124 dwellings, landscaping and associated infrastructure Land at, Whitechapel Road, Cleckheaton**

#### APPLICANT

BDW Trading Ltd/Charles  
Robert Hirst/J C Nevin/I H  
Brierley

#### DATE VALID

25-Nov-2019

#### TARGET DATE

24-Feb-2020

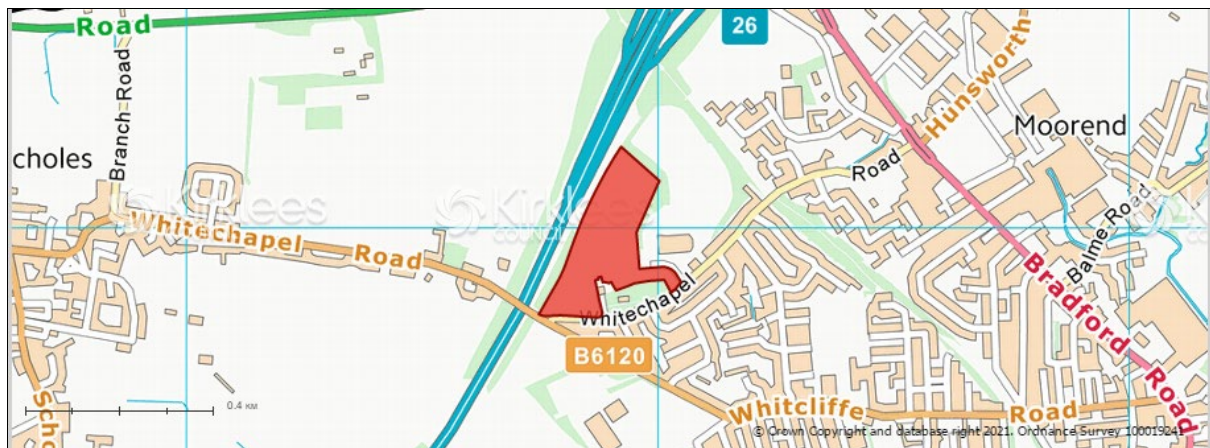
#### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Cleckheaton ward**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:** DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement to cover the following matters:

- 1) Affordable housing – 25 affordable housing units (tenure split to be 12 units would be discount for sale and 13 units would be for social or affordable rent) to be provided in perpetuity.
- 2) Open space – Off-site contribution of £72, 608 to address shortfalls in specific open space typologies.
- 3) Education – Off-site contribution of £479,197 (Whitechapel C of E Primary School - £259,345 and Whitcliffe Mount School - £219,852).
- 4) Junction monitoring – Off-site contribution of £10,500 for 5no. Bluetooth journey time detectors at the Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction.
- 5) Core walking and cycle network improvements – Off-site contribution of £20,000 towards the improvement of a link between the site and the Spen Valley Greenway.
- 6) Bus stop improvements - £23,000 towards the provision of a bus shelter and real time information to bus stops on Whitechapel Road.
- 7) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring and a sustainable travel fund of £63,426.00.
- 8) Off-site Biodiversity Net Gain requirements – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain.
- 9) Multi-modal link route to be delivered between the proposed estate road and the boundary of the application site, adjacent to plots 85-89.
- 10) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker).

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION:**

- 1.1 This application for full planning permission is presented to Strategic Planning Committee as the proposal is a residential development of more than 60 units.

- 1.2 The full planning application is made by PB Planning Ltd on behalf of BDW Trading Ltd, Charles Robert Hirst, Julia Claire Nevin and Ian Hirst Brierley.
- 1.3 The planning application was initially submitted for the “*Erection of 133 dwellings, landscaping and associated infrastructure.*” However, during the course of the planning application, the applicant has revised the planning application that now shows the erection of 124 dwellings, landscaping and associated infrastructure.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 The application site is located to the north of Whitechapel Road, sited behind a Public House and Whitechapel Church (Grade II listed); to the west of Whitechapel Church of England Primary School and to the east of the M62. The application site forms part of the north-western edge of Cleckheaton.
- 2.2 The site area measures 4.5 hectares and consists of several small-medium size, irregular shaped fields which are currently unmanaged. The site generally slopes from south-west to north-east from around 125m AOD to 115m AOD. There is a notable change in topography to the north west of the site which consists of part of a motorway embankment.
- 2.3 Mature trees and woodland areas can be found in and immediately adjacent to the site. Trees can be found along the site’s southern boundary with Whitechapel Road and the Priory at Whitechapel Public House, as well as two groups of trees within the southern field and one group within the northern field. Many of the mature trees in the south were subject to a Tree Preservation Order in January 2020. (TPO Reference: TPO NO 1 2020” (KIRKLEES COUNCIL REF. DEV/SJH/ML/D26-1375))
- 2.4 A Public Rights of Way dissects the site (Reference: SPE/42/10 and SPE/24/40) and connects Whitechapel Road in the south to Snelsins Lane in the north, as well as with Spen Valley Greenway.
- 2.5 The site is well contained, with no residential properties adjoining it. The residential properties found in the immediate area can be found along Whitechapel Road and were built between 1958 and 1965. The residential properties are generally characterised by 2-storey detached and semi-detached buildings with hipped roof forms, some with front gable bay features, chimneys, constructed in a variety of building materials. These properties generally have spacious front and rear gardens with the properties adjacent to the site having in-curtilage parking.

## **3.0 PROPOSAL:**

- 3.1 The applicant seeks full planning permission for the erection of 124 dwellings comprising 12x 1-bedroom dwellings; 9x 2-bedroom dwellings; 59x 3-bedroom dwellings; and 44x 4-bedroom dwellings. The proposal would also consist of 25 dwelling houses which would represent 20% of the total number of dwellings on-site, comprising 12x 1-bedroom dwellings; 9x 2-bedroom dwellings and 4x 3-bedroom dwellings.

- 3.2 Vehicular and pedestrian access to the site would be provided via a new priority-controlled T-junction with Whitechapel Road to the south of the site, approximately 80 metres to the east of the junction with B6120 Turnsteads Avenue. A separate pedestrian link would also be provided to the south-west of the site and will meet with Whitechapel Road circa 200 metres to the east of the vehicular access. The existing Public Right of Way (PRoW) which runs through the site in a north to south direction, named as public footpath No. SPE/42/10 and SPE/24/40 would be diverted as along proposed footways within the application site. The application to divert this PRoW would be made separately to the planning application.
- 3.3 The dwellings have been arranged around a hierarchy of roads. At the access with Whitechapel Road, the proposed spine road is defined by a standard carriageway design, which splits into a number of secondary roads defined by shared surface principles and then private driveways.
- 3.4 Regarding parking requirements, the planning layout shows that each 2-bed dwelling would be provided with a minimum 1 dedicated parking space, and each 3-bed and 4-bed dwelling would be provided with a minimum 2 dedicated parking spaces. Any additional parking space would be provided via on-street parking if required.
- 3.5 Majority of the dwelling houses are 2-storeys, however, there are some 2.5 and 3-storey dwelling houses. A variety of dwelling house typologies are proposed in either in a detached, semi-detached, terrace (block of 3 dwellings) as well as apartment block (block of 4 apartments) form. Limited information is provided regarding the specific building materials. However, it is proposed to construct those dwellings within the immediate vicinity of the Church with reconstituted stone.
- 3.6 The layout shows a large public open space between Whitechapel Road, the Public House, the Church and the Primary School. Public open space is also proposed adjacent to the motorway and to the north east corner of the site. The total public open space accounts for 27% of the total application site area.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

- 4.1 None relevant.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 The applicant sought pre-application advice with regard to the residential development of the site (Reference: 2017/20325). Site layout plans and supporting information were provided, initially showing 160 dwelling houses, then 133 dwelling houses. A number of meetings between officers and the enquiry team took place and letters were subsequently provided on 25<sup>th</sup> October 2017 and 20<sup>th</sup> May 2019.
- 5.2 For the 160 dwellings scheme, the following main concerns and matters were raised as part of this enquiry process:

- Principle of residential development at the site is acceptable if the site becomes a housing allocation.
- The proposal represents overdevelopment

- Need for a clear road hierarchy
- Landscaping required between plots and along street frontages
- Car dominated design
- Use of character areas and way marker buildings
- Boundary treatments – concern about the use of 1.8m closely timber boarded fencing adjacent to streets and spaces
- Clear, unobstructed access for pedestrians and mobility impaired running directly from the front door of properties to the footway.
- Outlook of the proposed properties adjacent to the M62
- Public Rights of Way diversion and proposed alignment/design, as well as links with the wider footpath infrastructure
- Consideration will need to be given to the mobility impaired in terms of the general layout, including gradients
- Public open space requirement
- Air quality and noise considerations due to proximity with M62
- Highway design, transport, parking considerations
- Flood risk and drainage considerations, including Yorkshire Water apparatus that crosses the site.
- Appropriate ecological survey work and net gain requirements

5.3 Following the submission of a 133 dwellings scheme, similar concerns and matters were raised, as outlined above, in addition to the following:

- Acknowledgement by Design and Conservation team of the heritage considerations and the applicant's proposed areas of high and moderate significance
- The proposed access and layout should be designed to minimise the loss of mature trees on site.
- The proposed housing mix, including the provision of 20% affordable housing (54% Social or Affordable Rent to 46% Intermediate) should be justified against Local Plan policy LP11
- A high pressure gas pipeline runs along Whitechapel Road and consultation should be sought with Northern Gas and Health and Safety Executive
- The site falls within a Development High Risk Area and thus consultation should take place with the Coal Authority
- The proposed layout should be designed in accordance with the Highways Design Guide
- Consultation with Highways England regarding the site's potential impact on the motorway bund
- Ensuring that there are positive relationships between houses and the proposed public open spaces

5.4 The planning application was submitted for the "Erection of 133 dwellings, landscaping and associated infrastructure" with a similar site layout as was submitted with the pre- application enquiry. In numerous email correspondence and meetings, officers raised the same concerns with the applicant, particularly with regards to those associated with 'overdevelopment.' In addition, objections/concerns/queries were raised and additional information sought by Northern Gas, Highways England, KC PRoW, KC Crime Prevention, KC Lead Local Flood Authority, KC Waste Strategy, KC Ecology, KC Highways Development, West Yorkshire Archaeology Advisory Service, Yorkshire Wildlife.

- 5.5 The planning application was subsequently amended to the “Erection of 124 dwellings, landscaping and associated infrastructure” and supporting information updated, accordingly, to try and address these concerns.
- 5.6 Since the submission of the 124 dwellings scheme, further email correspondence and meetings have taken place between officers and the applicant team around the following matters:
- Securing dwelling houses that accord with the National Described Space Standard
  - Relevant planning obligations
  - Loss of on-site mature trees and mitigation measures
  - Surface water drainage strategy, with preference to discharge into off-site watercourse
  - Securing a biodiversity net gain
  - Agreement of the proposed landscape typologies
  - Agreement of the design and diversion of the Public Rights of Way
  - Section 38 highway requirements regarding highway adoption
  - Ensuring the necessary waste storage and presentation facilities
  - Crime prevention regarding the mid-terrace dwelling houses and suitable boundary treatments
- 5.7 Amended/additional plans and documentation has been received in response to the above matters.

## **6.0 PLANNING POLICY:**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (2019):

- 6.2 Relevant Local Plan policies are:

LP1 – Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP4 – Providing infrastructure  
LP5 – Masterplanning sites  
LP7 – Efficient and effective use of land and buildings  
LP9 – Supporting skilled and flexible communities and workforce  
LP11 – Housing mix and affordable housing  
LP20 – Sustainable travel  
LP21 – Highways and access  
LP22 – Parking  
LP23 – Core walking and cycling network  
LP24 – Design  
LP26 – Renewable and low carbon energy  
LP27 – Flood risk  
LP28 – Drainage  
LP30 – Biodiversity and geodiversity

LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP47 – Healthy, active and safe lifestyles  
LP48 – Community facilities and services  
LP49 – Educational and health care needs  
LP50 – Sport and physical activity  
LP51 – Protection and improvement of local air quality  
LP52 – Protection and improvement of environmental quality  
LP53 – Contaminated and unstable land  
LP63 – New open space  
LP65 – Housing allocations

6.3 The application site is allocated for housing development in the Local Plan (site allocation HS97). HS97 relates to 4.5 hectares (gross) / 3.12 hectares (net, excluding an area of open land from the developable area), sets out an indicative housing capacity of 122 dwellings.

6.4 HS97 identifies the following constraints:

- Public right of way crosses the site
- Noise source near site - M62 motorway
- Site affected by hazardous installations
- Site is close to a listed building
- Part/all of the site is within a High Risk Coal Referral Area

6.5 HS97 identifies other site specific considerations:

- The site can be accessed through the area of land identified as of high significance within the council's Heritage Impact Assessment. There should be a sensitive approach to the design of the access in order to minimise harm to the character of this area and the setting of the church. The remainder of the area of high significance should be left "open" for community uses.
- The area of moderate significance as defined in the council's HIA should be retained as open land.
- There should be a sensitive approach to building orientation, massing, height, density and layout on the site in order to minimise harm to the significance of the Church and its setting, taking into account the evidence presented in the Council's Heritage Impact Assessment or any updated Heritage Impact Assessment submitted by the applicant as part of the planning application process.

Supplementary Planning Guidance / Documents:

6.6 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions
- Technical Planning Guidance (2016)
- Kirklees Housing Strategy (2018)
- Kirklees Strategic Housing Market Assessment (2016)
- Kirklees Interim Affordable Housing Policy (2020)

- Kirklees Joint Health and Wellbeing Strategy and Kirklees Health and Wellbeing Plan (2018)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Negotiating Financial Contributions for Transport Improvements (2007)
- Providing for Education Needs Generated by New Housing (2012)
- Highway Design Guide (2019)
- Waste Management Design Guide for New Developments (2020)
- Green Street Principles (2017)

### Climate change

- 6.7 On 12/11/2019 the council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

### National Planning Policy and Guidance:

- 6.8 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal.

- 6.9 Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 5 – Delivering a sufficient supply of homes
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Chapter 17 – Facilitating the sustainable use of materials.

- 6.10 Since March 2014 Planning Practice Guidance for England has been published online.

- 6.11 Relevant national guidance and documents:

- National Design Guide (2019)
- Technical housing standards – national described space standard (2015, updated 2016)
- Fields in Trust Guidance for Outdoor Sport and Play (2015)

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The planning application was advertised via five site notices posted on 12/12/2019, an advertisement in the local press dated 12/12/2019, and letters were sent to addresses adjacent to the application site. This is in line with the council's adopted Statement of Community Involvement.

7.2 22 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

### Principle, conservation and design

- No green field sites should be developed until all brown field sites in the area have been developed first.
- Cleckheaton has had its fair share of new housing over the last few years and it's time that this stopped, Kirklees is a big area please share things instead of impacting on a site that has significant heritage and history including the church and trees.
- There is a 900 year old church with a conservation order on it which would be a shame to spoil it as I'm sure any building work will effect the foundations.
- This application is for 133 houses which is 11 more than agreed by the Local Plan.
- The applicant should respect the decision of the Local Plan Inspector and the Council should ensure that this is reflected in the decision of the planning committee.
- The Council should also ensure that the detail of its Heritage Impact Assessment used in determining the net developable area and indicative capacity during the Local Plan is reflected in the design and layout, and accords with the requirements of the HIA (i.e. the high and moderate areas of significance should remain open).
- Plans show the applicant have moved the developable area boundary with dwellings in the area of the Local Plan HIA high significance area. The applicant have no interest or regards for any damage in what this development would have on a Heritage site of high historical significance for the local and surrounding areas.
- Whilst the new plan is an improvement on the previous one, the number of houses is still far too many for this area. Why is it that the plan overrides the HIA Report of 30/1/2019 by increasing the site area from their recommended 3.12 Ha to 4.4 Ha and the number of houses from 122 to 133? Where are the 2 copses of trees off Whitechapel Road on the plan, or is it planned to remove them? The Arboricultural Survey allows for the felling of certain trees in one of the copses (G8) but retention of the rest. If the plans should eventually go ahead can it be ensured that these 2 copses will not be destroyed? What about the boundary wall on Whitechapel Road, we hope this would be constructed in stone - as are all the surrounding walls in the vicinity.
- The church We are lucky to have such a beautiful and popular church so well preserved. The church the Priory public house and adjacent fields are part of Cleckheaton History. The picturesque view has remained unchanged for centuries. This new development would doubtless intrude on this Heritage Asset.

- We are aware that this site has already been considered by through the local planning process and it was identified that the site should be reduced in size from 4.2 to 3.12 hectares and a reduction in dwellings to 122 however this doesn't appear to have been taken into account to by the developer who had submitted plans for 133 dwellings of which 11 are still shown on the plans to be erected in an area classified as of high significance in the Heritage Impact Assessment which HIA states should only be used for access if sensitively done in keeping with the environment and to maintain the landscape and protect the views of the Heritage asset Whitechapel Church also land of moderate significance should not be built on and retained as open land. The plans submitted clearly show that the boundary recommended by HIA has been moved and has drawings of dwellings in the area of high significance clearly showing the planners have no interest or regards for any damage in what this development would have on a Heritage site of high historical significance for the local and surrounding areas or for the current residents of Whitechapel Road .
- The plans show that the boundary wall is planned to be brick which is not in keeping with the area and should be made of stone.

#### Environmental quality and pollution

- Air quality must be an issue with the houses being approx. 60 metres from the M62, particularly during the morning and evening rush hours, with traffic congestion (8 lanes of stationary and slow moving traffic emitting toxic fumes) and the prevailing westerly winds will make the situation worse. This will burden the already overstretched NHS.
- The air quality at Chain Bar roundabout shows alarming results and I believe the air quality will be far worse at Whitechapel Road.
- Existing residential properties suffer from noise pollution from the motorway so it is likely that the proposed houses will also suffer and even more so being located closer to the motorway.
- The proposal will result in additional traffic which will have an unacceptable impact on noise and air quality in the local area, impacting on school children, residents and the general public.
- Many parents wait in their vehicles with the engine running ( sometimes up to 30 minutes. Not only is this illegal, it also represents an unpleasant health hazard for residents pedestrians and for the children at the nearby school.
- Current studies show that there is a significantly higher risk of respiratory disease for people (particularly children) living near busy roads. This development puts 133 houses right next to the very busy M62. Not to mention the noise of the traffic!
- The Air Quality Assessment shows that they would be living in levels of pollution often above those of the centre of Leeds and Manchester Piccadilly. These figures will only rise in the future with more and more slow moving heavy traffic.
- Serious concerns about the air and noise pollution associated with the development, because of the proximity to the M62. The residents of the houses on the perimeter of the motorway will be condemned to ever increasing levels of traffic fumes and noise.
- 133 homes are likely to have at least one car each, adding to air pollution and traffic congestion in an already heavily polluted and congested area.

### Infrastructure

- Reduce the amount of houses proposed as there is currently too many houses proposed which will have an adverse impact on the local infrastructure – schools, doctors, roads.
- As Cleckheaton has a very close link to the motorway surely some of the new buyers will be from out of town and not locals re allocating-so therefore will have to access local amenities.
- Local schools are oversubscribed
- GP surgeries and dentists patient lists are full. By increasing number of individuals would make it more difficult to make appointments.
- We feel very strongly that this site on this road after the 3 developments at the bottom of Whitechapel Road will at to more traffic chaos, more pollution, more toll on Cleckheaton's infrastructure.
- Negative impact on the quality and availability of local services.
- Many modern homes have 2 or 3 toilets and/or bathrooms placing strain on sewage, drainage and water provision. Much land is likely to be paved over, leading to flooding risks.
- There are no leisure facilities in Cleckheaton since the demise of the sports centre, the local library is run on a shoestring by volunteers, and the town hall offers only limited services.
- Local shops are small and are mostly quite specialist.
- This development is out of place and not needed. How will it meet a housing need? How does it provide an economic benefit for Cleckheaton?
- Together with other developments (e.g. Hunsworth Lane) in the local area, it would require a substantial investment in additional local services to make these developments feasible- something that I feel as we are on the extremity of the council boundary Kirklees are unwilling to make.

### Highways and transportation

- How can a narrow road like Whitechapel road accommodate the addition number of cars. At peak times, the road reduces to a single car width, how is this safe?
- The new residents will commute to Leeds or Manchester as there are not the jobs or facilities in Cleckheaton.
- The garages will not even accommodate a small car.
- Whitechapel Road is used as a rat run to junction 26 of the motorway, particularly when there is an accident on the M62, with ever increasing traffic particularly at peak times. More houses mean more traffic on this road.
- Whitechapel Road is already an extremely busy road since they extended Whitechapel School, there is also another school/college above the road which adds to the chaos.
- The development will worsen the school opening and leaving times where there are serious traffic and parking issues as well as highway safety issues on Whitechapel Road, which also impact other local roads at least 200 metre either side of Whitechapel School.
- Residents on Whitechapel Road opposite (the only access road to the development) need to be able to park vehicles outside their houses. Surely in the interest of safety there can be no parking either side of this access road. This will result in 15 to 20 fewer parking spaces for parents picking up or dropping off and push the chaos further down the road.
- Potential residents are not likely to walk and cycle to work in Leeds and buses are not regular enough to use, thus more car use and greater impact on the M62 junction 26.

- Whitechapel Road suffers from speeding traffic and residents find it difficult to get out of their driveways.
- There is currently a parking issue on local roads (being monitored by highways and the police) which this development will impact on.
- The proposal will result in a greater number of accidents on Whitechapel Road.
- How will we manage with trucks up and down, mud everywhere making it slippery and accident prone. Is someone going to ensure the road is clean and our cars on the roadside are safe.
- Adding a number of properties and therefore more families to the area will make traffic worse, potentially dangerous, especially now the council has removed the crossing patrol.
- There are also 5 bus stops, used by the 259 and the 256. These buses often cannot access the stops because of parked cars (often associated with school pick up/drop off), leading to more congestion. The subsequent use of Kenmore Drive and Turnsteads Drive as rat runs to avoid this, becomes extremely hazardous for those living in these residential streets. The development will exacerbate this issue.
- Local roads are a patchwork of potholes.
- All the roads are B roads.
- Travelling to school be adversely impacted.

#### Biodiversity and trees

- Concerns about the wildlife that live in the identified area: squirrels, bats, owls that will be adversely affected due to a reduction in their habitat
- There are also trees that are 100's of years old in this area. I strongly oppose any building work of this size at this site.
- There is plenty of wildlife living in the fields and it will disrupt their living leaving them homeless.
- There will be significant tree loss at the site. Well established old trees will be lost which provide vital habitat for wildlife.
- The potential loss of the ancient trees that surround the field and provide a vital wildlife link to the Greenway and the open areas beyond. The trees are vital to the dozens of species that we regularly see, including tawny owls, bats, hedgehogs, woodpecker, nuthatch, fieldfares, sparrow hawk, dunnock, waxwing, goldcrest, greenfinch, tree sparrow, thrushes, chaffinch, rooks and so many more too numerous to mention. This precious habitat should not be destroyed at the very time when we should be so aware of how we treat our environment.

7.3 The following comments were also received from the following organisations:

#### Spen Valley Civic Society

This site was considered through the Local Plan process – we believe the reference number to be H508 - and was approved as a housing allocation. The civic society made representation in respect of this site and we participated in the hearing, and consequently respect the decision to allocate as housing. A number of major modifications were made following the hearing, by The Planning Inspector, one of which does not accord with the detail of this application. These included a reduction of the net site area from 4.5 to 3.12 ha, and a reduction in the indicative capacity from 170 to 122 dwellings. This reduction was required to take account of the Heritage Impact Assessment undertaken by the council which identified areas of high and moderate significance, with the area of moderate significance as defined in

the council's HIA being retained as open land. The area of high significance was to be made available for access to the site provided there was a sensitive approach to the design of the access in order to minimise harm to the character of this area and the setting of the church. The rest of the area of high significance should be left open. This application is for 133 houses which is 11 more than agreed by the Local Plan. The applicants should respect the decision of the Local Plan Inspector and the Council should ensure that this is reflected in the decision of the planning committee. The Council should also ensure that the detail of its Heritage Impact Assessment is reflected in the design and layout, and accords with the requirements of the HIA.

Whitechapel Church of England Primary School (Headteacher)

Thank you for your email regarding the planning application for a significant number of houses on the land directly next to our primary school.

As a home owner myself, I appreciate the need for houses to be built so would only wish to raise concerns linked to the safety and safeguarding of children at our school whilst the houses are being built and after they have been completed.

My main concerns would be:

1. There is a right of way through our main drive to the fields and I would need reassurance that builders would not use this access.
2. Linked to this access the fields itself are open to the school carpark and grounds and therefore would request that the building firm/company erect the security green fencing before starting works in order to seal the entrance to the field and therefore stop children accessing the building site. This would need to be permanent green fencing as once the house are built they would be able to access the school grounds if fencing is not erected.
3. Linked to the security green fencing the fields to the back of school are also accessible from the grounds. Should the housing development go ahead – then the perimeter green fencing would also need erecting here in order to safeguard the children and the site. This is not something school would afford to do under current budgets and therefore I would request the company to erect/provide the cost for the fencing to safeguard the children in our school.

These are my main concerns regarding the development and I would like reassurance that the safeguarding of the children in school would take high priority. I would be happy to meet to discuss and a visit to school may be beneficial in order to show you the areas as discussed above.

7.4 In response to the consultation, the applicant submitted revised plans and documentation showing a reduction of dwelling numbers from 133 dwellings to 124 dwellings. The planning application was re-advertised via five site notices erected on 22/07/2020. Emails and letters were sent to interested parties and addresses adjacent to the application site.

7.5 10 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

Principle, conservation and design

- There have been a lot new homes built on Whitechapel Road in recent years and I think the local residents have already had more than our fair share of noise and road disruption.

- Surely in 2020 we should be able to find sites which are more suitable for building homes which are healthy to live in for the residents than this site so close to the M62
- A 900 year old church in the area which will surely suffer structural wise with all the earth moving equipment
- Still contrary to the Heritage Impact Assessment (HIA) as the plan still shows the boundaries in the HIA have been changed which will mean houses built on land of moderate significance which was to be left open to protect the views and setting of Whitechapel Church
- The size of the housing development is far too large to not have a negative increase on noise disruption, air pollution, traffic congestion and a irreversible negative impact on the significance of the heritage site and surrounding landscape: copses that needs protecting.
- We still believe that green field sites should not be developed until brown field sites have been developed first.
- On viewing the revised plans for this development it is obvious that they still show no consideration for local residents or the surrounding area, by adding flats to the development it will undoubtedly mean even more vehicles using Whitechapel Road.

#### Environmental quality and pollution

- Unethical to sell houses on the proposed site as family homes, as they will be so close to the noisy and fume-laden M62 motorway.
- The proposed houses would not have the luxury of the existing houses that are sited away from the motorway and benefit from a number of mature trees protecting them from noise and air pollution.
- The proposed homes will be harmful to the physical and mental health of the residents - it is likely they will have to keep their windows closed at all times due to the noise pollution.
- Building houses near to the proximity of an 8 lane motorway is condemning the next generation to health problems and diseases linked to toxic air pollution as the stretch of motorway is regularly at a standstill.
- The building of dwellings in close proximity to an 8 lane motorway and
- adding to the congestion of the roads near the proposed site is condemning the new residents to a ticking time bomb of health conditions: asthma or worse due to poor air quality which will add increased burden on the already over subscribed NHS health services in the area.
- From what we have deduced the Toxic fumes have been monitored in the Summer when the leaves are in full bloom and the absorption of fumes is much better due to all the leaves on the trees It is hard to ascertain from the new plans what the boundary wall will be constructed from but it should be stone as in keeping with the area
- From the reports it's stated that the junction of Whitechapel Rd/A638 Bradford Rd/Hunsworth Rd is expected to operate marginally over capacity in the design year in the absence of the development proposal so with increased traffic generated from a development of 122 dwellings approximately 200 additional cars congestion will be significantly increased and the proposed site will increase noise disturbance and increase poor air pollution that has already failed in the area due to toxic fumes.

### Infrastructure

- New residents are unlikely to be locals and as such there would be an adverse impact on local amenities – schools, doctors, dentists, etc
- With other new builds, this development will overload the small town of Cleckheaton
- The local infrastructure can't cope with anymore large building developments: schools, roads and health care provisions are all at breaking point.
- I understand the need for housing but this road is not the place for it two developments have been built at lower down Whitechapel Road in recent years and I think enough is enough
- There is also the possibility of an industrial estate being built up the road which will further impact on the local area

### Highways and transportation

- Rat run traffic between Scholes and Cleckheaton accessing the motorway and other roads which this scheme will worsen
- Impact on already parking issues associated with Whitechapel Primary School
- Regardless of the number of houses being reduced, this road cannot take such an increase in traffic. I'm pleased to read that the Highways department seem to agree on this.
- I urge the planning department to view the road at various times on different days to see how the traffic already has navigate the parked cars on this road. In particular at the times when the local school starts and finishes
- Most households now have at least 2 cars per household, that would result in over 200 extra cars using Whitechapel road in either direction
- The main road through Scholes would be impacted by this increase.
- Buses and cars stuck between parked cars at school opening and closing times, which this development will affect.
- Concern about the accuracy of the supporting highway information - the reports on traffic are saying that the traffic impact would be minimal when at busy times Whitechapel Rd already has queuing at the junctions at the top and bottom of the road and at school times drop off and pick up the road is impassable with residents having to time leaving and returning home.
- Concern that the highway /traffic reports and data have been updated and assessments completed during these unprecedented times when traffic movement was at an all time low due to the government lockdown Stay at Home, which will have given a false recording of the problem of traffic congestion on Whitechapel Rd.
- Traffic congestion will significantly increase with 124 properties with on average 1/2 cars per household, and only one entry/exit onto Whitechapel Rd which will then continue to significantly add to the already failing air pollution and increase of noise
- Also it's worrying that traffic data is only collected once residents have moved in, which is too late to reverse planning permission
- I'm also objecting to the PROW which currently goes through fields encouraging walking which on the plans has been addressed and moved to go down the road on the development this is not a compromise as anybody can walk down a road but who wants to.

- The new submitted plans the only road for the development has been moved lower down which will significantly impact on our privacy as every vehicle leaving will directly look onto our property with headlights shining into our windows.
- I understand that traffic surveys have been carried out but a few random checks do not give the full picture.

#### Biodiversity and trees

- We also have concerns about the wildlife that live in the identified area: squirrels, bats, owls that will be adversely affected due to a reduction in there habitat.
- The plans to build a development of 124 houses will have considerable negative effects on the area taking away the natural habitat for animals and open fields for encouraging walking and exercise which within the area is becoming a very limited resource.
- Barratts seem intent on ignoring the area of high significance and the Tree Preservation Order. The 2 groups of trees, numbers G7 and G8 have a TPO on most of the trees within them
- Reference provided to KC Trees response
- If Barratts are allowed to chop down these trees along with those which must be removed for the site entrance, no matter how many trees replace them, they will take many years to achieve the same filtering effects as these mature trees.
- There are TPO's on trees that are shown on the plans to be felled this includes the copes which are of historical value and interest to the area and should be protected. The plans show new trees to be planted in place of trees to be felled which have been around for decades but this would have no beneficial benefits to minimising noise from the M62 in the way of a buffer or more importantly to reduce air pollution for years adding to the already failing air pollution in the immediate area which is linked to the high volume of traffic within the area.
- At least 30 species of birds will be affected by this development with the loss of their habitat, particularly with the loss of the mature trees.

7.6 The following comments were also received from the following organisations:

#### Spenn Valley Civic Society

We consider the comments we made in respect of the original application remain valid. We note that the number of houses proposed has reduced to 124, which is positive, but we remain of the opinion that the number built should be the same as that agreed at the Local Plan ie 122. We cannot see what is the difficulty in sticking to this number, and respecting the outcome of the Local Plan process. Similarly we would expect the requirements as outlined in the Council's Heritage Impact Assessment to be fully complied with, to ensure that the design and layout accords with the requirements of the HIA and Local Plan. We are relying on the officers of the Council to ensure that this happens, and so ensure the heritage of the site is properly protected.

7.7 After the receipt of amended plans and additional information that included a revised drainage strategy another re-consultation exercise was carried out by letter, including residents further afield along Whitechapel Road and at Laithe Hall Avenue.

7.8 4 letters of representation were received, and redacted versions are available online. The following is a summary of the points raised:

Principle, conservation and design

- There will be a detrimental effect on the character of the area with a large housing estate, especially close to a heritage area.
- No consideration for protecting a significant heritage site of Whitechapel church and the copes that need to be protected.
- In October 2020 the police said they cannot support the plan. Have their concerns been addressed?

Environmental quality and pollution

- The use of the proposed public open spaces would be detriment to the health of residents as they would be exposed to the proposed noise and air pollution associated with the motorway
- Future residents will suffer from long-term negative health impacts due to noise and air pollutions.
- The re-distribution of the spoil mound, created when the motorway was constructed, to the northern lower lying area would lift that area by 2 - 2.5 metres. This would mean that the houses on the M62 boundary would be brought down to a correspondingly lower level, bringing them nearer to the level of the motorway, and nearer to the associated noise and air pollution. Has the issue of proven noise and air pollution been resolved? We think not.

Infrastructure

- Oversubscribed local amenities

Highways and transportation

- Whitechapel Road will be increase traffic, increase pollution and increase "rat run" And there will be more cars parking on roads when school hours, perhaps on path if really narrow for roads, such as like bus go through also I am concern for wheelchairs will be struggle to access through it on the path.
- The proposed "No waiting at any time" restriction be put on Whitechapel Road. This would be an additional problem for current residents - where would their visitors or any delivery drivers be expected to wait?

Biodiversity and trees

- Net loss of biodiversity that is inconsistent with the NPPF
- The plans feature the removal of a number of mature trees, some of which are subject to TPOs which is inappropriate.
- In December 2020 Yorkshire Wildlife Trust said that the loss of biodiversity made the plan currently unacceptable. Has this been addressed?
- Concerns raised about the loss of the two areas of protected trees as per KC Trees comments.
- Public right of way moved to the road not acceptable, removal of healthy TPO trees and natural habitat being taken away from wildlife not acceptable.

## 8.0 CONSULTATION RESPONSES:

8.1 The following provides a summary of consultee advice. Where necessary, further details are contained within the appraisal below (Section 10).

## 8.2 Statutory:

Health and Safety Executive: Health and Safety Executive (HSE): Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Highways England: No objection, subject to conditions requiring consultation on a Construction Management Plan; drainage to not connect or impact on the Strategic Road Network drainage systems; and construction cannot commence until Highways England has provided written confirmation that boundary fencing arrangements are acceptable.

KC Highways Development Management: No objections subject to conditions and obligations.

KC Lead Local Flood Authority: No objection, subject to the necessary planning conditions and obligations:

1. Enabling works – in principle agreement between the applicant and LLFA. Subject to agreeing details around the criteria for exhausting option A, working up the details of the design and works proposal and agreement with landowner;
  - a. Prior to commencement Condition offsite works;
  - b. Prior to commencement Condition Design and details of the works;
2. Drainage – in principle agreement:
  - a. Prior to commencement Condition required for fully worked up design with long sections;
  - b. Prior to commencement Condition require to manage any volumes up to 1 in 100 year plus climate change specifically the flooding noted in microdrainage calculations at the head of systems;
  - c. Prior to first occupation Condition requiring management and maintenance agreement (this must be in the S106 too);
  - d. Prior to commencement Condition for temporary works information and management and maintenance during construction phase;

The Coal Authority: No objection.

## 8.3 Non-Statutory:

Historic England: No comment.

Natural England: No comment.

KC Conservation and Design: This application has been the subject of much discussion at Local Plan Inquiry Examination and preapplication discussions in regard to the impact upon the setting of the Grade 2 listed Whitechapel Church. Has part of the Local Plan inquiry the Council produced a Heritage Impact Assessment which is referred to in allocation HS97 of the adopted Local Plan. The inspector stated, comments are in the allocation, that the area of high significance and of moderate significance should be retained as “open land” apart from forming an opening to the development through the area of high significance. However, during the inquiry the and subsequent pre-application discussions it was agreed that the boundaries of the HIA areas of significance were somewhat arbitrary since they did not follow defined boundaries and did not necessarily protect the views and setting of the

church. In terms of the high significance area it was agreed to pull the boundary further south to the front edge of the former public house and form a similar diagonal to the west to the low point of the land. In terms of the moderate area the line was pulled south to follow the line of the school boundary. These changes are now accurately reflected submitted site layout. In terms of the layout and its impact upon the setting of listed church I am of the opinion that opportunities have been taken to minimise the harm to the setting and this is the case in terms of the massing and orientation. I am therefore of the opinion that the requirements of the allocation have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church.

KC Ecology: Cannot support the planning application. The applicant should engage with a suitably qualified ecologist to demonstrate how a measurable biodiversity net gain is to be achieved.

KC Education: Financial contributions sought for Whitechapel C of E Primary School (£259,345) and Whitcliffe Mount School (£219,852).

KC Environmental Health: Comments have yet to be provided regarding the latest information submitted. However, previous comments state that there is no objection subject to the imposition of planning conditions for noise and ventilation, air quality, electric vehicle charging points, land contamination, construction environmental management plan.

KC Landscape: No objection, subject to the necessary conditions securing hard and soft landscaping details, which also secure the necessary tree mitigation planting and biodiversity net gain. The management and maintenance of the on-site Public Open Space as well as a financial contribution of £72,608 towards off-site Public Open Space shall also be required to be secured by section 106 agreement.

KC Policy: Commentary provided regarding which policies to consider in the determination of the planning application.

KC Public Health: No objection. Officers welcome the proposed affordable housing but would have welcomed greater 'pepper potting' of the proposed affordable housing across the site. Officers welcome the opportunities for physical activity and have suggested additional cycle lanes and seating areas in the proposed Public Open Space (POS). Officers believe that the proposed POS in the north east corner could accommodate allotments or informal growing plots. Future travel plans should demonstrate sustainable, ease of access using, safe, multi-modes of transport and active travel to the town centre 2km away. In relation to air quality and noise concerns are raised regarding the potential inability to open windows in habitable rooms, without perception or fear of significant noise and air pollution would still have long-term, negative health impacts on the future occupiers. Public Health recommend that the travel and transport plans explore developing opportunities and links to use multi-mode, active travel and further increase opportunities to future occupants and surrounding communities. This could be by improved by the provision of cycle lanes linking to existing routes. The travel coordinator could also work with the local school to incorporate a school streets model, that protects users from road traffic accidents, air pollution and increases active travel. This is especially relevant as the school run parking associated with the nearby primary school is known to stretch from the school,

and past the site of the proposed site access prior to the increase of the future occupiers. Officers welcome and acknowledge the economic benefits associated with this proposal. It is recommended that recruitment is sought through a wide range of employment agencies and at a localised level as well as at the construction phase the employee contracts reflect good quality employment for the circa 4 years of construction.

KC Public Rights of Way: Comments have yet to be provided on the latest site layout plan. However, there is a current objection. Proposals for the public path diversion (green dashed markings) are almost entirely via estate road footways. The link provision to the western side of the development is as a footway, immediately adjacent to the estate road. The connection at the northwest corner of the site should be wider and accessible to cycles/equestrians, the proposed and shown connectivity at the south east of the site should be repeated at the north west end. There is lack of clarity around plot 85 of what may be provided and constructed for public use. Where are the existing and proposed PROW sections (cross and long)? Where are the constructional details routes for public access? There is no evident proposal for works to the path on site north of the Priory public house and how it meets and works with the estate road layout. The development proposal would require the formal diversion of public right of way before implementation, by separate process, with separate application and significant costs. Diversion of the public footpaths on site is not supported regarding these current planning submissions.

KC Strategic Housing: No objection. There is significant demand for affordable 1/2/3/3+ bedroom homes in the area. The application proposes 1, 2, 3 and 4 bed homes, therefore a mixture of dwellings would be appropriate for this development. Affordable housing should be indistinguishable from market homes, and evenly distributed across the development to ensure tenure-blindness. In terms of affordable tenure split, across the district Kirklees works on a split of 55% social or affordable rent to 45% intermediate housing. 13 social or affordable rented dwellings and 12 intermediate dwellings would be suitable for the development.

KC Trees: Objection due to the loss of protected trees. The proposal has made no changes to the level of required loss of protected trees. The protected groups of trees which will be lost, to facilitate the current layout, are important landscape features contributing to the character and setting of the locality and provide notable public amenity. These benefits to the local environment will only be increased if the trees groups are then retained in the proposed housing estate, with the associated increase in public access. The importance of retaining mature existing trees on this site was highlighted in pre-application advice, then via the imposition of a new TPO and then in early consultation comments made in relation to this planning application. As per previous comments, the loss of the two groups of mature protected trees, located at the front of the site, cannot be supported and is contrary to Local Plan policies LP24 and LP33, as well as NPPF paragraph 127.

Northern Gas Network: No objection and willing to rely on their statutory powers if necessary.

KC Waste Strategy (Refuse and Cleansing): Comments are yet to be provided on the latest site layout plan. Previous had no objection but concerns are expressed about bin storage for mid-terraced properties. However, concerns were raised about the proposed site layout plan not conforming with the Highways Design Guide for waste collection requirements. A condition is recommended for a temporary waste collection strategy.

West Yorkshire Archaeology: No objection.

West Yorkshire Police Designing Out Crime Officer: Concerns expressed regarding the proposed shared rear access for mid-terrace properties, relationship between some plots and the public rights of way, boundary treatments and position of gates. Request also made for further security information regarding cycle stores. Acknowledge that these matters can be secured by planning conditions.

Yorkshire Water: Comments yet to be provided on the latest drainage information submitted. Previous comments explained how the updated site layout plans submitted do not indicate any of the diversion proposals or stand-off distances for the relevant sewers crossing the site. In addition, the sewers do not appear to be surveyed. It is expected that these issues will be addressed prior to the discharge of conditions stage of this development and so the conditions previously stated still apply.

Yorkshire Wildlife Trust: Cannot support as the metric, currently demonstrates that the site will result in at least a 57% loss of biodiversity. This is currently unacceptable and we have reason to believe that this will in reality be a greater loss, as it is not considered appropriate to include vegetated gardens as post development habitat creation due to the inability to retain and manage them in perpetuity. As such it is usually requested that all gardens are considered to be 'unvegetated gardens', resulting in over 67% loss of biodiversity on site. Any trees included within the metric proposed in residential gardens should also be removed from the metric. As such the proposals are currently not in accordance with national or local policy which require demonstration of a measurable net gain for biodiversity.

## **9.0 MAIN ISSUES:**

- Land use and principle of development
- Climate change and sustainability
- Heritage
- Design
- Residential amenity and quality
- Affordable housing
- Highway and transportation issues
- Impact on the Public Rights of Way
- Flood risk and drainage issues
- Trees
- Biodiversity
- Environmental and public health
- Ground conditions
- Representations
- Planning obligations
- Other matters

## 10.0 APPRAISAL:

- 10.1 Planning law requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
- 10.2 The Local Plan sets out a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum.
- 10.3 In accordance with Local Plan policy LP65, full weight can be given to site allocation HS97, which includes the application site's red line boundary, and which allocates the site for housing. Allocation of this and other greenfield (and previously green belt) sites was based on a rigorous borough-wide assessment of housing and other need, as well as analysis available land and its suitability for housing, employment and other uses. The Local Plan, which was found to be an appropriate basis for the planning of the borough by the relevant Inspector, strongly encourages the use of the borough's brownfield land, however some release of green belt land was also demonstrated to be necessary in order to meet development needs. Regarding this particular site, in her report of 30/01/2019 the Local Plan Inspector (referring to the site when it was numbered H508) explained how the site's relationship with the wider countryside is restricted due to the presence of the nearby M62 motorway and local roads to the north and south. It was considered that the motorway and existing buildings to the east would create strong new defensible Green Belt boundaries. The Inspector concluded that there were exceptional circumstances exist to justify the removal of the site from the Green Belt.
- 10.4 Therefore, the principle for the proposed delivery of a housing development on the land within the red line boundary is accepted in accordance with the land's allocation in the Local Plan.
- 10.5 The Local Plan Site Allocation box HS97 set out a number of constraints and site specific issues for these housing sites. These are all addressed within this appraisal.

### Climate change and sustainability

- 10.6 The applicant's Planning Policy Statement, Design and Access Statement as well as Health Impact Assessment refer to climate change and sustainability policies, and also refer to the drainage measures to combat climate change. The applicant has also submitted a Climate Change Statement acknowledging the Council's climate change emergency. The statement explains how the potential housebuilder is reducing its carbon emissions and its climate change commitments. Site-specific features have also been identified that will protect and improve the environment, which officers acknowledge. Officers note, that measures would be necessary to encourage the use of sustainable modes of transport. Adequate enhancement and connection with the core walking and cycling network, provision for cyclists (including cycle storage for residents) and electric vehicle charging points would be secured by condition and obligation, should planning permission be granted. A development at this site which was entirely reliant on residents travelling by private car is unlikely to be considered sustainable. Drainage and

flood risk minimisation measures would be required to account for climate change and an underground storage attenuation tank is proposed to ensure the site achieves the necessary 30% climate change factor.

- 10.7 The application site is a sustainable location surrounded by an established residential area, it is adjacent to a Primary School, a Church and there is a newsagent/off licence as well as a Secondary School nearby. The supporting information also shows that there are also other shops and services within 2km of the application site, including Cleckheaton town centre. In addition, the site is located on Whitechapel Road, which is a bus route that provides access to Brighouse and Bradford. The site is also located on a public rights of way network that connects to the Spen Valley Greenway, which are part of the borough's core pedestrian and cycle network. Therefore, some of the daily, social and community needs of residents of the proposed development can be met within the area surrounding the application site, which further indicates that residential development at this site can be regarded as sustainable.
- 10.8 Further reference to, and assessment of, the sustainability of the proposed development is provided later in this report in relation to transport and other relevant planning considerations.

#### Heritage

- 10.9 One of the main site's constraints is the neighbouring Whitechapel Church, which is a Grade II listed building and together with its graveyard denotes the site's southern boundary with Whitechapel Road. The Historic England listing explains that the Church is listed for the following principal reasons:
- *"Date: the church, on the site of earlier chapels, pre-dates the Victorian period and contains several fragments of the earlier buildings on the site;*
  - *Architecture: the style of the building is a modest Gothic Revival, but has added interest in a corbelled tower at the western end with bell-chamber and restored spire. The exterior is largely unaltered apart from the addition of a south porch of 1923 that commemorates the fallen of the First World War;*
  - *Fittings: fittings of interest include a substantial carved Norman font, a sundial of 1606, several fragments of earlier fabric, a gallery of 1821 and an oak chancel screen and altar of 1924."*
- 10.10 Impacts on a heritage asset can manifest themselves in two ways; those of a direct impact on the asset themselves, and the impact on their setting. There are no direct impacts on the listed church or its graveyard but there is the potential to impact on their settings. Setting is defined in the NPPF as *"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral."*
- 10.11 The setting of a Listed Building is required to be considered for any development under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is also a requirement for consideration under paragraphs 189 and 190 of the NPPF as well as policy LP35 of the Local Plan.

- 10.12 As part of the Local Plan Inquiry, the Council prepared a Heritage Impact Assessment (HIA) which is referred to in site allocation box and detailed in paragraph 6.5. The HIA identified areas of high and moderate significance within the site which provide an important open setting to the adjoining listed Whitechapel Church. The Local Plan Inspector considered that these areas should be retained as 'open land' to conserve the open and rural setting of the listed Church. As detailed in the site allocation box, these areas should also be left "open" for community uses.
- 10.13 The site layout plan shows public open spaces are largely proposed within areas designated as high and moderate significance. A Heritage Desk Based Assessment also accompanies the planning application which has been reviewed by the Council's Conservation and Design officer. It is considered to be proportionate to the assets' importance and in addressing the provisions of paragraph 189 of the NPPF. The document concluded that *"The proposed development will represent a change in the surroundings of the church. There is some development proposed in the areas which contribute more to the significance of the asset however, these additions have been carefully designed to ensure they do not cause significant harm to the significance of the heritage asset."*
- 10.14 The Conservation and Design officer who was involved with the Local Plan Inquiry, held subsequent pre-application discussions with the applicant team. It was subsequently agreed that the boundaries of the HIA areas of significance were somewhat arbitrary since they did not follow defined boundaries and did not necessarily protect the views and setting of the church. In terms of the high significance area it was agreed to pull the boundary further south to the front edge of the former public house and form a similar diagonal to the west to the low point of the land. In terms of the moderate area the development line was pulled south to follow the line of the school boundary. The officer considered these changes to be accurately reflected in the submitted site layout. However, Development Management acknowledge that the agreed boundary changes would also result in the loss of existing mature trees that have gained protected status during the planning application process.
- 10.15 The Conservation and Design officer also considered that in terms of the layout and its impact upon the setting of listed church that opportunities have been taken to minimise the harm to the setting, in terms of the massing and orientation. In addition, the officer considered that the requirements of the site allocation box have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church.
- 10.16 Overall, it is considered that the proposed development, would have a 'less than substantial harm' to the significance of the setting of Whitechapel Church. The proposed development would represent a change in the surroundings of the church, from rough grazing fields to a residential development, with the loss of existing trees. Although, not entirely reflecting the HIA, the areas which contribute more to the significance of the asset would remain largely free from built form and have been sensitively designed with additional tree planting. Thus, not causing any further harm to the significance of the asset. Paragraph 196 of the NPPF requires that where a development proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate,

securing its optimum viable use. It is considered that public benefits associated with the delivery of this housing allocation would outweigh any harm caused to the setting of the listed building, including:

- Contribution towards the district's housing land supply.
- Contribution to the investment of Cleckheaton.
- Provision of 20% affordable housing.
- Employment opportunities, including the applicant's apprenticeship scheme for the building trade and to involve local tradesmen and businesses in the supply chain.

10.17 During the course of the planning application the West Yorkshire Archaeology Advisory Service requested further archaeological information be submitted. Records indicated some potential for earlier activity or settlement on the site, possibly medieval activity and a Roman Road, as well as evidence of early mining may also be present. A Geophysical survey and trial trenching was subsequently carried out and no evidence of significant archaeological remains was encountered. As such, West Yorkshire Archaeology Advisory Service require no further archaeological works within the boundary of the site.

10.18 It is not anticipated that the proposed development would adversely affect the significance of designated and non-designated heritage assets. This assessment is supported by the applicant's supporting information. As such, this proposal would accord with the policy LP35 of the Local Plan, site allocation box HS97, and chapter 16 of the NPPF.

### Design

10.19 Chapters 11 and 12 of the NPPF, and Local Plan policies LP2, LP5, LP7, and LP24 are relevant to the proposed development in relation to design and conservation, as is the National Design Guide.

10.20 The proposal is described in section 3.0 of this report. As detailed in paragraph 6.4, the application site has a number of site constraints, in addition to other site constraints including tree preservation orders. These site constraints has affected the net developable area and the proposed site layout. As a result, the proposed residential dwelling houses are set back from Whitechapel Road and from the listed church in the south, behind Public Open Space to respect its setting. The development is set in from the motorway to the east, in line with the guidance regarding air quality and noise buffers. Dwellings have been sited away from the northern and eastern boundaries so that they do not have an adverse impact on the trees found within the school grounds. Public Open Space has been proposed within the north east corner (lowest point of the site) to accommodate the necessary drainage infrastructure. Finally, the existing Public Rights of Way network (public footpath No. SPE/42/10 and SPE/24/40) that crosses the site is proposed to be diverted and incorporated either within the proposed estate roads, denoted by grass verges and within Public Open Spaces.

10.21 Local Plan policy LP7 requires housing density should ensure efficient use of land, in keeping with the character of the area and the design of the scheme. Developments should achieve a net density of at least 35 dwellings per hectare, where appropriate. Lower densities will only be acceptable if it is demonstrated that this is necessary to ensure the development is compatible

with its surroundings. The importance of making effective use of land is also recognised in Chapter 11 of the NPPF, section B1 in the recently published National Design Guide and guidance on the effective use of land within the Planning Practice Guidance, which was updated on 22nd July 2019.

- 10.22 It is understood that during the Local Plan Inquiry, based on the site constraints and regard to average densities, the net developable area was reduced to 3.12 hectares and the indicative site capacity was subsequently reduced from 170 dwellings to 122 dwellings. At the pre application enquiry stage and on initial submission, the proposal was for 133 dwellings, which represented a net density of approximately 43 dwelling per hectare. Officers subsequently raised concerns associated with 'overdevelopment' and as such the proposal was revised to 124 dwellings, which represents a net density of approximately 40 dwellings per hectare. Officers consider that this quantum of development is generally acceptable in achieving the efficient and effective use of land, in accordance with policy LP7 of the Local Plan.
- 10.23 The proposed single vehicular access onto Whitechapel Road is considered acceptable to serve 124 dwelling units. The proposed use of a movement hierarchy, transitioning from Whitechapel Road through primary streets, to secondary and tertiary routes, characterised by different street widths and surface treatments is welcomed as it would aid legibility and a 'sense of place.' The proposed dwelling houses have also been laid out within perimeter blocks which would mean that the proposed streets and spaces benefit from the necessary activity, visual interest and natural surveillance. Furthermore, it could be said that although the Public Rights of Way has to be diverted within the site, its incorporation would provide potential residents with the opportunity to use it.
- 10.24 Car parking has been designed so that the majority of which is located within the curtilage of individual properties. Parking spaces that are not within domestic curtilages are overlooked from adjacent residential properties allowing an adequate level of surveillance. During the planning application process, officers continually raised concerns about the visual dominance of the parked car caused by the over reliance of driveways to the front of the dwelling houses, with little or no mitigating planting. This issue has now in the main been addressed with the reduction in dwelling numbers but to some extent still exists along the western edge.
- 10.25 A mixture of dwelling types including apartments, terraces, semi-detached and detached units are proposed, which in turn provide a range of 1-bed, 2-bed, 3-bed and 4-bed dwelling units as detailed in paragraph 3.1. It is considered that this development would be suitable for different household types which reflect changes in household composition in Kirklees, in accordance with policy LP11 of the Local Plan.
- 10.26 The application site is relatively well contained and the proposed dwelling units would be set behind a landscape area. Therefore, the proposed dwelling houses would not immediately abut the nearest mid-20<sup>th</sup> century residential estate to the south. Thus, the site lends itself to establishing a new built development with a different character and appearance.
- 10.27 A variety of built forms are proposed with hipped and/or gable end roof forms. The Design and Access Statement includes drawings showing that majority of the dwellings to be 2-storey, interspersed with 2.5 and 3-storey dwellings,

which would create the necessary visual interest to the proposed street scenes. Drawings also show the use of single storey detached garages set back from the building line, particularly within the eastern block.

- 10.28 Although, the proposed dwelling types are relatively simple in appearance, elevational drawings show that the proposed front and side elevations would be defined by several features, including window and door surrounds, string courses, door canopies, front gables, dormer windows and garages. Building materials are yet to be agreed and could be secured by condition. However, the Design and Access Statement indicates that the dwellings adjacent to the Public Open Spaces could be constructed from art-stone and the rest could be constructed using brick, which officers believe could also add to the visual interest.
- 10.29 The proposed site layout plan shows that the site's southern edge would be defined by a new Public Open Space. Officers consider the Public Open Space would be accessible, safe, overlooked and strategically located within the site and locality, between the school and the church. However, officers would have preferred if such spaces could have also accommodated the existing trees considered to be of value to maximise visual amenity and environmental benefits. Nevertheless, Development Management consider there to be sufficient space within these spaces to seek the necessary tree mitigation.
- 10.30 The West Yorkshire Police Liaison officer has made a number of comments and recommendations, particularly with regards to shared rear access footpaths for mid-terrace properties, boundary treatments, access gates, lighting, surveillance and home security. All of the comments made are advisory and have been referred to the applicant. Additionally, all these considerations need to be weighed against future residents' preference. For instance, future residents of mid-terrace properties may prefer the proposed rear access arrangements as it will allow for waste and dirty bicycles to be moved outside rather than through their homes. The applicant has suggested lockable gates and alternative boundary treatments and is willing to accept the necessary planning conditions to address these matters. Therefore, subject to the imposition of conditions, it is considered that the site can be satisfactorily developed whilst minimising the risk of crime through enhanced security and well-designed security features in accordance with LP24 (e).
- 10.31 Therefore, on balance, the proposed design is considered to be acceptable in line with policy LP24 of the Local Plan, Chapter 12 of the NPPF and the National Design Guide.

#### Residential amenity and quality

- 10.32 NPPF paragraph 127 clause (f) and Local Plan policy LP24 clause (b) requires developments to provide a high standard of amenity for future and neighbouring occupiers, including by maintaining appropriate distances between buildings.
- 10.33 Acceptable separation distances are proposed between the new dwellings and existing neighbouring properties on Whitechapel Road. The proposed distances, with an intervening landscape area would ensure existing neighbours would not experience significant adverse effects in terms of natural light, privacy and overdominance.

- 10.34 Outlook is also a material consideration relevant to this application. However, private views currently enjoyed by existing residents of Whitechapel Road across the green fields of the application site cannot be protected by the Council in its determination of planning applications.
- 10.35 In terms of noise, residential development would increase activity and movements to and from the site. However, given the site's location adjacent to Whitechapel Road (which is already used by through-traffic) it is not considered that neighbouring residents would be significantly impacted. Residents of some existing properties on Whitechapel Road could experience greater levels of everyday noise and disturbance, however these impacts are not considered so great as to warrant refusal of planning permission. Furthermore, the proposed residential use is not inherently problematic in terms of noise and is not considered incompatible with existing surrounding uses.
- 10.36 Residents have expressed concern regarding headlights (of vehicles moving out of the proposed development and onto Whitechapel Road) shining into neighbouring properties. This is acknowledged as a potential impact (and, therefore, attracts some negative weight), however the impact would be momentary, it would only happen when vehicles are moved during dark hours, and it is therefore not considered so problematic as to warrant refusal of permission. Headlights momentarily shining on a property opposite a street entrance in this way is not an uncommon occurrence.
- 10.37 To accord with Local Plan policy LP52, a condition requiring the submission and approval of a Construction Management Plan (CMP) is recommended. The necessary discharge of conditions submission would need to sufficiently address the potential amenity impacts of construction work at this site. Details of dust suppression measures and temporary drainage arrangements would need to be included in the CMP. An informative regarding hours of noisy construction work is recommended.
- 10.38 With regard to the West Yorkshire Low Emission Strategy, Environmental Health Officers have recommended a condition, requiring the provision of electric vehicle charging points. In addition, a Travel Plan, including mechanisms for discouraging high emission vehicle use and encouraging modal shift (to public transport, walking and cycling) and uptake of low emission fuels and technologies will be secured by planning conditions and obligations.
- 10.39 The sizes of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home.

- 10.40 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.
- 10.41 At pre-application stage, officers expressed concern that not all of the proposed dwellings would meet the minimum unit size figures set out in the Government's NDSS guidance. The applicant, however, advised that full compliance with the Government's standards would not be proposed. Therefore, using the lowest resident numbers set out in the NDSS the initial proposal showed that only 60 (45% of the total) out of the 133 dwelling houses were compliant with the NDSS.
- 10.42 During the course of the planning application and after discussions with officers, the applicant has amended the proposed scheme to acknowledge the NDSS. Using the lowest resident numbers set out in the NDSS, a greater level of NDSS compliance is now proposed. In the current, amended (124-unit) proposal, 87 dwelling units (70% of the total) would exceed NDSS. Most of the other 37 dwelling units (30% of the total) are close to compliance, and they include three house types (i.e. Maidstone (77 sqm), Moresby (79 sqm) and Denby (82 sqm) house types), which are all 3-bedroom dwelling houses. All of the 25 affordable units would exceed NDSS. A full breakdown of the proposed unit sizes is provided in the tables below, with figures in sqm (gross internal area). Grey shading and an asterisk highlights the non-compliant units.

#### **OPEN MARKET HOUSING:**

| <b>House Type</b> | <b>House Type Description</b>  | <b>Number of units</b> | <b>Sqm</b> | <b>NDSS based on min. bedroom nos. (GIA)</b> |
|-------------------|--|------------------------|------------|--|
| Maidstone*        | 2-storey, 3-bed terrace house / semi detached house                  | 19                     | 77         | 84   |
| Lockton           | 2-storey, 3-bed semi detached house                                  | 4                      | 87         | 84   |
| Moresby*          | 2-storey, 3-bed terrace house / semi detached house / detached house | 11                     | 79         | 84   |
| Kingsville        | 2.5-storey, 3-bed terrace house / semi detached house                | 13                     | 100        | 90   |
| Brentford         | 3-storey, 3-bed terrace house  | 1                      | 108        | 90   |
| Woodcote          | 2.5-storey, 4-bed, terrace house / semi detached house               | 19                     | 113        | 97   |
| Denby*            | 2-storey, 3-bed detached house                                       | 7                      | 82         | 84   |
| Kingsley          | 2-storey, 4-bed detached house                                       | 3                      | 101        | 97   |
| Ashburton         | 2-storey, 4-bed detached house                                       | 7                      | 137        | 97   |

|          |                                |   |     |    |
|----------|--------------------------------|---|-----|----|
| Alderney | 2-storey, 4-bed detached house | 6 | 114 | 97 |
| Radleigh | 2-storey, 4-bed detached house | 9 | 122 | 97 |

#### **AFFORDABLE HOUSING:**

| <b>House Type</b> | <b>House Type Description</b>                       | <b>Number of units</b> | <b>Sqm</b> | <b>NDSS based on min. bedroom nos. (GIA)</b> |
|-------------------|---|------------------------|------------|--|
| 60                | 1-bed apartment                                     | 6                      | 42         | 39   |
| 61                | 1-bed apartment                                     | 6                      | 42         | 39   |
| Kewdale           | 2-storey, 2-bed terrace house / semi detached house | 9                      | 79         | 70   |
| Kirkbridge        | 2-storey, 3-bed semi detached house                 | 4                      | 86         | 84   |

- 10.43 The applicant has explained that in order to increase the amount of NDSS-compliant house types within the scheme they have had to reduce the overall numbers (to 124 dwellings). This has led to a reduction in the number of larger 4-beds proposed (from 49 to 44 dwellings) in order to create sufficient space to increase the size of the 1-, 2- and 3-bedroom homes on the site to meet NDSS standards. The applicant has also stressed that in doing so they have managed to retain the same level of on-site POS within the scheme, which accounts for 27% of the total site area.
- 10.44 Officers have queried whether more of the units could be made compliant (for example, adding just 2sqm to the Denby units would result in another 7 units being compliant), however the applicant has advised that this is not possible for viability reasons (although no supporting viability evidence has been submitted by the applicant). Officers would have preferred all of the units to be properly NDSS-compliant, however these amendments are still considered to be a significant improvement on the previous proposals, and – noting the other matters that influence amenity (considered elsewhere in this report), and again noting the policy position in relation to NDSS, as well as paragraph 018 of the “Housing: optional technical standards” section of the Government’s online Planning Practice Guidance (ref: 56-018-20150327) – it is considered that the proposals are acceptable in relation to unit sizes.
- 10.45 All of the proposed dwellings would benefit from dual aspect, and would be provided with adequate outlook, privacy and natural light. Adequate separation distances would be provided within the proposed development between the new dwellings. Public representations have raised concerns that some of the future residents would have a poor outlook over the motorway and would suffer from any associated noise and air pollution. However, officers consider that the site layout plan has been designed to take into account these matters and any mitigation measures can be secured by the imposition of planning conditions.
- 10.46 All of the proposed houses would be provided with adequate private outdoor amenity space proportionate to the size of each dwelling and its number of residents. Several areas of open space are proposed, which total 11,755 sqm (1.18 hectares), the main one being to the south adjacent to Whitechapel

Road, which would also include a Locally Equipped Area for Play (LEAP). The LEAP would be within 400m walking distance of all the homes it serves, and would be positioned to provide a buffer zone between it and the habitable room façade of adjacent dwellings. Further details of the LEAP would be required by condition.

- 10.47 For the reasons set out above, the proposal is considered to provide acceptable living conditions for future occupiers and sufficiently protect those of existing occupiers. It would therefore comply with the objectives of NPPF paragraph 127 clause (f) and Local Plan policy LP24 clause (b).

#### Affordable Housing

- 10.48 Local Plan policy LP11 requires 20% of units in market housing sites to be affordable. In this instance, 25 of the proposed 124 units would be affordable, which would accord with this policy objective.
- 10.49 Of the affordable housing provision, a 55% social or affordable rent / 45% intermediate tenure split would be required, although this can be flexible. The site layout plan shows that 12 dwelling units that are either 2-bed or 3-bed and would be discount for sale. The site layout plan also shows that 13 dwelling units would be for social or affordable rent and would consist of twelve 1-bed apartments and one 2-bed dwelling. This provision would be secured within a Section 106 agreement. Strategic Housing have explained how there is significant need for affordable 1, 2, 3 and 3+ bedroom homes in Batley and Spen SHMA Market Area, along with 1 and 2-bedroom properties for older people specifically. Officers would have preferred a greater tenure mix of social or affordable rented dwellings. However, it is considered that such proposal would assist in meeting a known need as set out in the 2016 Strategic Housing Market Assessment.
- 10.50 Local Plan policy LP11 explains how affordable housing should be indistinguishable from market homes, and evenly distributed across the development. The site layout plan shows that three house types would be used and would be located in three groups across the site (rather than grouped together). Similar detailing and the same materials are proposed for all dwellings, which would help ensure that the affordable units would not be visually distinguishable from the development's market units.
- 10.51 Taking all these matters into account, the proposal is therefore compliant with Local Plan policy LP11.

#### Highways and transportation issues

- 10.52 Local Plan policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and can be accessed effectively and safely by all users. The policy also states that new development will normally be permitted where safe and suitable access to the site can be achieved for all people, and where the residual cumulative impacts of development are not severe.
- 10.53 Paragraph 108 of the NPPF states that, in assessing applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, that safe and suitable access to the site can be achieved for all users, and that any

significant impacts from the development on the transport network (in terms of capacity and congestion), or highway safety, can be cost-effectively mitigated to an acceptable degree. Paragraph 109 adds that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highways safety, or if the residual cumulative impacts on the road network would be severe

- 10.54 To address these policy considerations, a Transport Assessment (TA), Appendices, and an Addendum prepared by Bryan G Hall, as well as an Interim Travel Plan prepared by TPS accompanies this planning application. These documents been amended during the course of the application after comments made by consultees. These documents also include the necessary traffic survey work of the local highway network, carried out in the peak hours (7:00am –10:00am and 4:00pm – 7:00pm) on Thursday 10<sup>th</sup> January 2019. All local schools were within term-time at the time of the surveys and therefore the observed flows are considered to be representative of typical conditions.
- 10.55 Vehicular and pedestrian access to the site will be provided via a new simple priority-controlled T-junction with Whitechapel Road to the south of the site, approximately 80 metres to the east of the junction with B6120 Turnsteads Avenue. The TA provides a drawing showing that the proposed access design of 2.4 metres x 43.0 metres visibility splays to the east and west can be provided within the highway boundary to the nearside kerb. Whitechapel Road is a two-way carriageway with single lanes in each direction. The road has an approximate width of 7.5 metres, with footways on the northern and southern sides with approximate widths of 1.3 metres and 1.8 metres respectively. Whitechapel Road is a residential distributor type road and also provides direct frontage access to residential properties. Some 250 metres to the east of the junction with Turnsteads Avenue and in the vicinity of Whitechapel Primary School, there is localised traffic calming in the form of three separate speed tables. Whitechapel Road is street lit, has no parking restrictions and is subject to a 30mph speed limit. A separate pedestrian link will be provided to the south-west of the site and will meet with Whitechapel Road circa 200 metres to the east of the vehicular access, near to the school. Highways Development Management (HDM) officers consider that a suitable access point to the site can be achieved for 124 dwelling houses at this location, without the need for a second access point.
- 10.56 Using the TRICS database (an industry standard tool) the Transport Assessment predicts that a development size of 124 dwellings, the proposed development is likely to generate a total of 117 and 109 person trips in the morning and evening peak periods respectively. When applying HDM vehicular trip rates of 0.7, a development size of 124 dwellings is likely to generate some 87 total vehicle movements in both the morning and evening peak periods. Officers accept the vehicular trip generation figures for the development and consider that the additional vehicle movements on the highway network can be safely accommodated.
- 10.57 Taking into consideration other committed developments outlined in the Local Plan (i.e. Site allocations: HS96 Merchant Fields, Hunsworth Lane, Cleckheaton (413 dwellings), HS101 Land Adjacent to Rooks Avenue, Cleckheaton Rooks Avenue (58 dwellings) and ES6 Land to the north and west of, The Royds, Whitechapel Road, Cleckheaton (37,380m<sup>2</sup>)) the Transport Assessment and Addendum provides a full junction capacity assessment using industry recognised computer modelling software for the following key junctions:

- The site access junction
- Whitechapel Road / B6120 Turnsteads Avenue Simple Priority Controlled Junction
- Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction
- A638 Bradford Road / A643 St Peg Lane / A638 Dewsbury Road / A643 Parkside Traffic Signal-Controlled Junction

10.58 The computer modelling software indicates that the Whitechapel Road / A638 Bradford Road / Hunsworth Lane traffic signal-controlled junction is predicted to operate over its theoretical capacity in the 2024 sensitivity base scenario due to background traffic growth and committed development. The TA explains how development will add 47 two-way trips through this junction during both peak periods. This results in an increase in traffic flows of 2.2% during the morning peak period and an increase of 2.1% during the morning peak period. This equates to an additional vehicle through this junction every 77 seconds, or less than one vehicle every minute. The impact of the development proposals at this junction is considered not to be severe to warrant a refusal. Officers have considered whether any physical alterations could be incorporated at this junction to reduce this impact. It is not considered that there are any measures that could practically be provided to significantly alter the delay. However, it is recommended that a financial contribution secured by Section 106 agreement is sought from the applicant towards Bluetooth journey time detectors so that the junction time situation can be accurately monitored. Based on the computer modelling software the other junctions are predicted to operate within maximum theoretical capacity.

10.59 The site benefits from being located adjacent to a frequent bus route and consists of a public footpath that connects to the Spen Valley Way to the north, which is part of the Local Plan core walking and cycling network. Officers are of the opinion that the proposal's minor impact on the highway network can be mitigated through maximising the use of these facilities. A robust Travel Plan would facilitate a modal shift to sustainable travel modes and thereby reduce reliance on private cars. A Travel Plan has been submitted but officers consider this an 'interim framework,' which would have to be developed into a full Travel Plan. The Travel Plan would be monitored for five years with the cost of this borne by the applicant. Contributions are also sought towards a package of sustainable transport measures. These include the upgrade of nearby bus stops, the provision of a sustainable travel fund (which could include residential Metro Cards) and a contribution towards the improvement of the existing public footpath network.

10.60 Furthermore, it is noted that in terms of the Local Plan allocation sites, the Kirklees Local Plan sets out a sustainable strategy for planned growth currently up to 2031, including proposals for planned mitigation to the local road network. This is underpinned by an extensive district wide strategic modelling exercise of the transport network (which takes into account current local road network/public transport use and forecasts planned growth). The strategic modelling also takes into account local, cross-boundary road network issues connecting into neighbouring authority areas.

- 10.61 From the perspective of transport, the cumulative transport impacts of the Local Plan land allocations, (together with existing local road network use and development which has planning permission but which is not yet built) are understood. This evidence provides a significant material planning consideration in the determination of planning applications and has informed the council's Infrastructure Delivery Plan that identifies potential mitigation measures at current and forecast areas of congestion. In summary, officers accept the vehicular trip generation figures for the development and consider that the additional vehicle movements on the highway network can be safely accommodated, subject to the necessary planning obligations and conditions.
- 10.62 The Waste Strategy officer initially raised concerns regarding the appropriateness of the location of bin storage and presentation points for a number of properties. Concern is still expressed about the proposed location and convenience of the bin facilities for the mid-terrace properties with the officer explaining that they are unlikely to be used. Further clarification was also sought regarding swept path analysis of an 11.85m refuse collection vehicle, particularly demonstrating that an 11.85m vehicle and a car can pass through bends. These matters have largely been addressed with the submission of the latest site layout plan. However, conditions are recommended regarding the storage and collection of waste for mid-terrace properties, as well as details of temporary waste collection arrangements to serve occupants of completed dwellings whilst the remaining site is under construction.
- 10.63 During the course of the planning application, the Highway Section 38 team explained how a number of amendments would be required for the proposed internal road layout for to be adopted by the council. The main amendments requested included the widening of some roads and junctions to ensure that visibility envelopes are within the highway and not within private curtilages and so that a refuse vehicle can safely pass a car. At the time of writing the report a revised site layout plan was submitted in response to the council's Section 38 Highway Team comments, which is expected to have addressed the concerns raised.
- 10.64 Highways England initially objected to the planning application and requested further information regarding drainage, slope stability, boundary treatments, retaining features and construction traffic. Further information has been provided and it is understood that discussions have taken place between Highways England and the applicant team. Highways England has subsequently removed their objection, subject to conditions requiring a construction management plan, drainage not impacting on the strategic road network and a suitable boundary fencing arrangements.
- 10.65 No objections have been received by Highways Development Management from a highway safety perspective. Subject to planning conditions and obligations, officers consider that the proposal would accord with Local Plan policies LP20, LP21, LP22 and the Highways Design Guide SPD, as well as NPPF chapter 9.

#### Impact on the Public Rights of Way

- 10.66 The red line boundary consists of an existing public footpath that is recognised as being part of the Public Rights of Way network, SPE/24/40 and SPE/42/10 (Spenborough 24 and 44). However, on site it appears that the

pedestrian desire line does not follow the definitive route. Instead, there is a more direct pedestrian desire line of tread to a stile and path found in the north western corner of the site, near to the motorway. Also, there is an obstruction in the form of a boundary fence between the site and the Whitechapel Church of England Primary School playing fields. At the pre application stage, PRow officers requested that the site plan clearly show the existing definitive public footpath alignment and any proposed alternative alignment. Officers explained that the subsuming of the path into the estate roads as suggested in the submissions at pre application enquiry would not be appropriate or acceptable. Officers required a rethink of the design regarding pedestrian access throughout the site.

- 10.67 The initial planning application did not address the above concerns. Numerous meetings have taken place and subsequent designs submitted to achieve a more appropriate and acceptable proposal. The PRow officer objected to the proposal due to the following reasons:

*“Proposals for the public path diversion (green dashed markings) are almost entirely via estate road footways. The link provision to the western side of the development is as a footway, immediately adjacent to the estate road. The connection at the northwest corner of the site should be wider and accessible to cycles/equestrians, the proposed and shown connectivity at the south east of the site should be repeated at the north west end. There is lack of clarity around plot 85 of what may be provided and constructed for public use. Where are the existing and proposed PRow sections (cross and long)? Where are the constructional details routes for public access? There is no evident proposal for works to the path on site north of the Priory public house and how it meets and works with the estate road layout. The development proposal would require the formal diversion of public right of way before implementation, by separate process, with separate application and significant costs. Diversion of the public footpaths on site is not supported regarding these current planning submissions.”*

- 10.68 Since this objection, another meeting has taken place between officers and the applicant team which has resulted in another site layout plan being submitted at the time of writing this report. The PRow officer is yet to provide comments.

- 10.69 Development Management consider that an acceptable layout and quantum of development cannot be designed around the current Public Rights of Way alignment. The latest site plan now shows the existing public footpath alignment (blue dashed line) and two proposed public footpath alignments (green dashed lines). The proposed eastern public footpath alignment is defined by an estate road, delineated in some places from the carriageway by grass verges, as well as a public open space to the north west corner. The proposed public footpath also shows potential connectivity with the existing PRow to the red line boundary to the north, as well as to an existing path in the north west corner. The proposed western public footpath alignment is also defined by an estate road delineated in some places from the carriageway by a grass verge with fewer driveway intersections. A 3 metre wide multi-modal link is provided between the estate road and the red line boundary outside plots 85 and 89 to enable the route to be used by cyclists and horse riders in the future. This 3 metre wide multi-modal link would be secured by planning obligation. The applicant has agreed to the imposition of conditions to secure the necessary additional information, in terms of signage, levels and boundary

and surface treatments to ensure that safe and accessible public footpaths can be achieved. In addition, the applicant has agreed to the provision of £20,000 towards the upgrade of towards the improvement of an off-site link between the site and the Spen Valley Greenway.

- 10.70 The current PRow does not prevent planning permission from being granted for this proposal. However, it should be noted that any planning application granted does not allow the interference of the public footpaths and any proposed diversion of a PRow would be required under a separate legal process and at the applicant's costs. Development Management consider that subject to the necessary conditions and obligations the proposal would be in accordance with Local Plan policy LP23.

#### Flood risk and drainage issues

- 10.71 NPPF paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. On the basis that the site lies in Flood Zone 1 (lowest risk of flooding from rivers or the sea), a sequential test is not required in this case.
- 10.72 The site was larger than 1 Hectare and therefore a Flood Risk Assessment (FRA) and Surface Water Management Strategy by ID Civils Design Ltd was submitted that considered the risk of flooding from various sources including rivers, groundwater, artificial sources and surface water. During the application process, this document was amended to provide further information in relation to the Lead Local Flood Authority (LLFA) comments in relation to surface water management
- 10.73 The National Planning Practice Guidance (NPPG) states that the aim of a drainage scheme should be to discharge run-off as high up the hierarchy as practicable:
- 1 – into the ground (infiltration)
  - 2 – to a surface water body
  - 3 – to a surface water sewer, highway drain, or another drainage system
  - 4 – to a combined sewer
- 10.74 A site investigation report confirms that the site is underlain by stiff clay strata and as such will be unsuitable for infiltration surface water drainage. The original FRA, proposed only a pump solution for surface water to a culverted watercourse at Whitechapel Road. The amended FRA, in addition to the pump solution now also proposes an option for a potential gravity solution. Historical OS plans show that there was a watercourse crossing the northern part of the site, across the adjacent school playing field and into a culvert prior to the railway embankment north east of the site which in turn runs through a property known as 'The Sidings'. Recent survey work by the LLFA of this section of culvert confirms that it requires repair and improvement work to reduce the risk of flooding, regardless of the development. The applicant has agreed in principle that this necessary works could be undertaken by themselves at their costs and CDM responsibility under the banner of enabling works.

- 10.75 The amended FRA explains though that timing of the gravity solution is however fundamental to the development progress and, the enabling works to achieve a gravity connection would need to be achieved at a suitable point in the build programme. In that situation the applicant claims that the only option would be to pump flows to the culvert in Whitechapel Road. As such, planning conditions and/or obligations may be required to allow for further off-site exploratory and/or enhancement work, as well as discussions and agreements with the necessary parties to secure the most appropriate drainage strategy.
- 10.76 Yorkshire Water has confirmed that foul water flows from the development can be discharged to the sewer network crossing the site at point to be agreed once the layout is finalised. The amended FRA explains that plots within the southern area have been connected to the foul sewer in Whitechapel Road for phasing purposes and also to reduce the number of pumped plots. Due to site levels, the majority of the site (central and northern area) is below the level of the sewer crossing the site, and therefore plots in this area will require pumping. A new pumping station will be constructed to adoptable standards in the north eastern corner of the site. A pump main will pump flows from the lower two thirds of the site up to the new gravity foul sewer prior to outfalling to the existing public sewer.
- 10.77 There is a public foul water sewer that crosses the southern part of the site in an east west direction. The amended FRA explains how a diversion of the public foul sewer is required. This diversion can be accommodated via the new public highway in the route shown on the strategy plan. The diversion will have to be agreed under section 185 with Yorkshire Water and constructed at the applicant's expense under supervision by Yorkshire Water.
- 10.78 The Lead Local Flood Authority have raised no objections subject to the necessary planning conditions and obligations, outlined in section 8.0 of this report. Comments on the amended FRA are yet to be provided by Yorkshire Water. However, officers expect that the proposal subject to the necessary conditions and obligations, accords with Local Plan policies LP27, LP28 and NPPF chapter 14 with regard to its potential impact on local flood risk and drainage.

#### Trees and ecological considerations

- 10.79 Trees can be found along the site's boundary edges with many located on third party land. Many of the trees found along the site's southern boundary with Whitechapel Road and with the adjacent PRow and Public House have Tree Preservation Orders (TPO). In addition, there are three groups of trees within the open fields, the two groups found within the southern field also have trees with Tree Preservation Orders. During the course of the planning application the council made a Tree Preservation Order on these trees in January 2020 (Reference: Land off Whitechapel Road, Cleckheaton TPO No.1 2020). The TPO lists 42 trees for protection which include trees recorded as Groups G1, G2, G4, G5, G7 and G8 in the applicant's supporting information. The application site is not situated within a conservation area and there is no ancient woodland or veteran trees on-site.

- 10.80 The planning application is supported by an Arboricultural Impact Assessment (AIA) Report and a Tree Mitigation Statement, both prepared by BWB Consulting, as well as a Landscape Masterplan prepared by Barnes Associates. These documents have been either amended and/or provided in response to consultee comments. In addition, a letter, dated 18<sup>th</sup> February 2020 by PB Planning was also submitted which details the reasoning disputing the council's making of the Tree Preservation Order. (TPO) NO 1 2020" (KIRKLEES COUNCIL REF. DEV/SJH/ML/D26-1375)
- 10.81 The planning application would result in the loss of mature trees, some of which have a TPO. The proposed site layout plan shows the loss of trees at Whitechapel Road (including TPOs: 01/20/t1 and 01/20/t2), those located behind the Public House (including TPOs: 01/20/t27, 01/20/t28, 01/20/t29, 01/20/t30, 01/20/t31) and the three groups of trees within the open fields (including TPOs: 01/20/t16, 01/20/t17, 01/20/t18, 01/20/t19, 01/20/t20, 01/20/t21, 01/20/t22, 01/20/t23, 01/20/t24, 01/20/t25, 01/20/t26). Supporting information details the trees to be removed including 40 trees that are category C (i.e. Trees considered to be of low quality and value), 57 trees that are category U (i.e. Trees considered to be unsuitable for retention) and 13 trees that are category B (i.e. Trees considered to be of moderate quality and value).
- 10.82 As explained above, during the planning application a number of trees were listed as a TPO due to their amenity value. Therefore, by listing the trees as TPO, the council considers that their removal would have a significant negative impact on the local environment and enjoyment by the public.
- 10.83 Officers note that the applicant has provided a letter that was submitted to the council during the designation of the TPO. The letter provides a detailed response disputing the TPO, highlighting the timing of the making of the TPO, the implications of the delivery of the site allocation, the lack of amenity, arboricultural and heritage value justification, lack of specific identification of the trees to be retained during the Local Plan inquiry and Pre Application process. The letter also explains how there is sufficient space within the site for replacement planting opportunities and a number of socio-economic benefits associated with the scheme that should be considered in the planning balance, including:
- Creating sustainable communities through meeting market and affordable housing needs, offering existing and potential residents of the District the opportunity to live in the house and location they desire.
  - Delivering significant financial contributions towards the improvement of Cleckheaton's and the District's infrastructure.
  - New capital expenditure in the region of £19m creating substantial direct and indirect employment opportunities of approximately 48 new direct jobs and 67 new indirect jobs of which 70% are usually retained in the local area.
  - Sustaining and improving the District's labour market through delivering the right homes in the right locations.
  - Increasing retail and leisure expenditure in the local area by approximately £3.3m per annum, creating 19 jobs in these sectors.
  - Provision of funding towards public services from an estimated figure of £900k from the Government's new homes bonuses & annual council tax payments of circa £225k per annum.

- Safeguarding and enhancing areas of environmental quality through creating on-site and off-site management schemes.
- 10.84 The applicant has explained that the loss of these trees is required to deliver to help facilitate the proposed access with Whitechapel Road, the proposed internal road layout and the proposed plots 1-6. The supporting information explains how the replacement trees will be planted at a ratio of 2:1 with a total of circa 140 new trees. The existing canopy cover of removed trees is approximately 2800m. The proposed canopy cover of 140 trees with an average 6m diameter tree canopy would be approximately 3900m.
- 10.85 At the pre application stage and during the course of the planning application, officers recommended the protection of the site's mature trees worthy of retention, particularly those at or near the site access. The Tree Officer does not support the planning application and considers it to be contrary to Local Plan policies LP24 and LP33 as well as NPPF paragraph 127. The officer considers the proposed tree planting is to a level that the council would ordinarily expect to see in a landscaping scheme supporting a development proposal of this size, without taking account of any tree loss. Therefore, the officer considers that the current tree planting scheme would not then mitigate for the loss of valuable existing trees.
- 10.86 Development Management acknowledge the Tree Officer concerns and the loss of mature trees worthy of retention attracts negative weight. However, Development Management consider that the necessary planning conditions can deliver an appropriate tree mitigation strategy that alongside the benefits of the scheme outweighs the harm identified by the Tree Officer. As such, Development Management advise that subject to the necessary planning conditions, the proposal is in accordance with Local Plan policy LP24, LP33 and NPPF paragraph 127.

#### Biodiversity

- 10.87 A Preliminary Ecological Appraisal (PEA) (which has been amended in response to consultee comments) and a Bat Survey, prepared by Brooks Ecological were initially submitted with the application. These documents identified the need for further ecological surveys, which were provided during the course of the planning application. Also, during the course of the planning application, an Ecological Impact Assessment and a Biodiversity Metric 2.0 - Calculation were provided.
- 10.88 The site is within a Biodiversity Opportunity Zone (Pennine Foothills). A south western portion of the site between the Public House and Church with the School can be found within a bat alert area. In addition, the land along the M62 corridor immediately west of the site is part of the Kirklees Wildlife Habitat Network (KWHN).
- 10.89 The supporting information explains that all of the habitats on the site were considered to be of 'site level importance.' The details of the following habitats found on the site and their condition were considered as follows:
- Neutral grassland - Habitat of medium distinctiveness in poor condition;
  - Broadleaved woodland, with two plantations located to the south of the site - Habitat of medium distinctiveness in moderate condition;
  - Hedgerows - Habitat of low distinctiveness in good condition;

- Lines of trees to the south of the site - Habitat of low-medium distinctiveness in moderate condition;
- Off-site broadleaved woodland - Habitat of medium distinctiveness in good condition.

10.90 The supporting information acknowledges the proposed loss and effect on some of the on-site habitats due to development but considers that such loss would be at worst 'significant at site level only.' The supporting information explains that the necessary compensatory and mitigation measures would be required to off-set any impact and to ensure a biodiversity net gain. Surveys submitted, have concluded that there would be no significant direct or indirect impacts expected by the development proposal on protected species.

10.91 The planning application has been reviewed by Yorkshire Wildlife Trust and the Council's Ecologist who have raised concerns that the site would result in a biodiversity net loss contrary to Local Plan policy LP30 and chapter 15 of the NPPF. Therefore, a condition and Section 106 obligations are recommended, requiring the applicant to provide the necessary calculation, and to explore all options for on-site compensatory works. If adequate compensatory works cannot be achieved on-site, the applicant must look for nearby, available sites where compensatory works can be implemented with the agreement of the relevant landowner. If no such sites can be found by the applicant, a financial contribution can be made which the council would be required to spend on compensatory measures at an available site. Conditions requiring the submission of an Ecological Design Strategy / Landscape and Ecological Management Plan (LEMP) / Biodiversity Enhancement Management Plan (BEMP) and a Construction Environmental Management Plan are also recommended to ensure the proposal is policy compliant.

#### Environmental and public health

10.92 The application site is adjacent to noise generating sources, such as the M62, a Public House and a School. As such, the planning application is accompanied by a Noise Assessment, prepared by SLR Consulting. Environmental Health officers have reviewed the document and consider the report accurately characterises the noise environment at the site and the impacts on future development. However, officers consider the report somewhat vague as to the precise proposed mitigations measures at the development in order to protect future occupiers of the residential units. Therefore, Environmental Health officers recommended conditions, in securing the necessary noise mitigation measures and sufficient ventilation for each individual plot that would be likely affected by a noise source. At the time of writing this report, an amended Noise Assessment has been received, together with a proposed acoustic fence boundary treatment. Additional comments have been sought from the relevant consultees.

10.93 The application is accompanied by an Air Quality Assessment (AQA), prepared by SLR Consulting. The assessment explains how passive diffusion tube monitoring of NO<sub>2</sub> concentrations at the site was undertaken over a 6-month period in order to provide an assessment of baseline air quality. This was to determine site-specific baseline annual mean NO<sub>2</sub> concentrations to assess the suitability of the site for residential development, and the spatial extent of any monitored exceedance to determine required buffer-zone / stand-offs from the adjacent M62 carriageway to inform future development layouts. As a result, the assessment recommended a buffer zone, with the

proposed dwelling houses off-set by 15m from the western-most boundary of the development site (i.e. bordering the M62 carriageway). This buffer would ensure that NO<sub>2</sub> concentrations are not a constraint to the site. Environmental Health officers have reviewed the AQA and agree with its findings.

10.94 However, during the planning application, the applicant has submitted a revised site layout plan and an amended AQA. The amended AQA provides further details an air quality assessment based on dispersion modelling using an Atmospheric Dispersion Modelling System-Roads with, and without the 2.1m high acoustic barrier on the western boundary of the site. Modelling was undertaken using a baseline year of 2018 and a future year of 2024 (opening year), in addition to traffic data provided by Highways England. The assessment concludes that the predicted modelling results with the acoustic barrier will reduce NO<sub>2</sub> concentrations at sensitive receptors along the western boundary of the site and that there were no predicted exceedances of the air quality objectives at any locations of relevant exposure. In addition, the modelling results confirmed that due to the acoustic barrier the original air quality 15m buffer zone can be reduced to 12.25m and that no dwellings are to be sited within this zone. Environmental Health officers have reviewed the AQA and agree with the approach and methodology, and concur with the conclusions of the assessment providing that a 2.1m high acoustic fence is constructed on the western boundary of the site. Therefore, subject to a condition securing these measures officers consider the proposal accords with Local Plan policy LP51.

10.95 The health impacts of the proposed development are a material consideration relevant to planning, and compliance with Local Plan policy LP47 is required. Having regard to the proposed affordable housing, public open space, cycling provision, pedestrian connections (which can help facilitate active travel), accessibility, dementia-friendly design, measures to be proposed at conditions stage to minimise crime and anti-social behaviour, and other matters, it is considered that the proposed development would not have negative impacts on human health. The applicant has submitted a Health Impact Assessment. The council's Public Health team have raised no objection in principle to the proposed development and have expressed support for majority of the aspects of it.

#### Ground conditions

10.96 Phase I and II Geo-Environmental Report, as well as a Permanent Gas Assessment, prepared by Groundtech Consulting have been provided with respect to potential site contamination. The reports conclude that the site has only been used as fields for grazing animals and the only contaminants elevated above screening levels for residential end use are thought to be naturally occurring and in the topsoil. A single arsenic and two lead exceedances were recorded in separate locations. Both exceedances were very minor and when statistical analysis was undertaken on the topsoil population it was determined that no remediation action is required in relation to arsenic or lead. Based on the conceptual site model and concentrations recorded, the risk to controlled waters is considered to be low. The soils natural and made ground soils on site are classified as non-hazardous. The ground gas regime has been confirmed in the Gas Assessment Report and no gas precautions are required. Environmental Health officers have reviewed these documents and agree with the findings and have recommended a condition for reporting of unexpected contamination at the site during construction.

- 10.97 The application site falls within the defined Development High Risk Area. Therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate that the site is in an area of probable shallow mine workings. As detailed above, the applicant has provided a supporting geo-environmental assessment based on intrusive site investigations, as well as a Gas Assessment Report. The geo-environmental assessment concludes that the site is not considered to be at risk of subsidence from shallow mine workings and therefore, no mitigation measures (e.g. consolidation by drilling & grouting) would be required. These documents have been reviewed by the Coal Authority who accept these findings.
- 10.98 The application site falls within an area designed as a Mineral Safeguarded Area (Surface Coal Resource with Sandstone and/or Clay and Shale) in the Local Plan. Local Plan policy LP38 states that surface development at the application site will only be permitted where it has been demonstrated that certain criteria apply. Criterion c of policy LP38 is relevant, and allows for approval of the proposed development, as there is an overriding need (in this case, housing need, having regard to Local Plan delivery targets) for it. In addition, officers consider that, whilst it is likely that these minerals may be present at the site, local constraints such as being located adjacent to a school would be such that mineral extraction in this location would not be viable. Consequently, officers believe that it would also not be feasible to extract mineral from this site.
- 10.99 It is therefore considered that this proposal accords with Local Plan policies LP38 and LP53, as well as NPPF chapter 15 with regard to potential contaminated and unstable land and minerals safeguarding issues.

#### Representations

- 10.100A total of 36 representations were received in connection with this proposal and are summarised in Section 7 of this report. An officer response to the main points that have been raised is provided below.

#### Principle, conservation and design

**Officer response:** Contrary to some of the comments made, the application is not Green Belt land and it is not afforded any particular protection in planning terms. Representations have stated that Cleckheaton has already had its fair share of housing development but the land is allocated for housing. Therefore the general principle of development has already been established through the Local Plan which was adopted in 2019. It has been suggested that brownfield sites should be developed first and concerns raised with the loss of this greenfield site. There is not a 'brownfield first' policy and the proposal is bringing forward allocations that are set out in the Local Plan. Concerns have been raised that the proposal shows 124 dwellings and not 122 dwellings as stated in the site allocation box HS97. It is important to understand that this number is not a minimum or a maximum figure and just an indication of the number of houses that could be achieved on site. Officers consider the quantum of development has been demonstrated in line with Local Plan policy LP7 and NPPF chapter 11. Conservation, visual amenity and design issues have been addressed in the report. Comments are noted about boundary treatments but limited information is provide and thus, a condition is recommended securing such details.

### Environmental quality and pollution

**Officer response:** These matters have been addressed within the report. Concerns are noted in relation to more people living closer to the motorway. However, assessments have been submitted that thoroughly assess the noise and air quality impacts particularly those associated with the motorway and have suggested a number of mitigation measures. Environmental Health officers have reviewed the assessments and have raised no objections subject to the imposition of such planning conditions. The impact of the construction of the development can be mitigated through construction management plans and conditions are recommended to this effect.

### Infrastructure

**Officer response:** With regard to the impact on education provision, the applicant is providing a financial contribution in line with the advice from the Council's Education section. In terms of the impact on medical facilities, the scale of development is not at a level that would require new healthcare facilities to be required under Policy LP49. Local healthcare provision is a matter for those particular providers and population data would form part of their planning for the delivery of services. The impact on drainage and road infrastructure has been assessed as being acceptable as discussed in this report. Officers consider that the proposed development would help to support existing local shops and services.

### Highways and transportation

**Officer response:** Highways Development Management have carried out a thorough technical assessment of the application and have requested additional information from the applicant and amendments to the layout. Final comments are yet to be provided by Highways Development Management but it is expected that there will be no objections to the matters raised. It is understood that school run parking associated with the nearby Primary School is known to stretch from the school entrance, and past the site of the proposed access. The Highway Safety section therefore recommend that a Traffic Regulation Order be promoted for a stretch of 'No Waiting at Any Time' restrictions on Whitechapel Road to either side of the proposed access. This would be secured under a separate process at the applicant's cost and would be secured by planning condition.

### Biodiversity and trees

**Officer response:** These matters are addressed in the report. The necessary survey work have been carried out to understand the ecological implications associated with this development, which are considered acceptable by the council's Ecologist. Concerns are noted about the loss of trees and habitats associated with this proposal. Development Management believe that the necessary planning conditions and obligations would ensure that the development delivered a suitable tree mitigation strategy and an overall biodiversity net gain.

### Spenn Valley Civic Society

**Officer response:** These matters are addressed in the report. The council's Conservation and Design officer who was involved with the Local Plan Inquiry and pre application enquiry discussions has raised no objections to the issues raised. Furthermore, the officer is of the opinion that the requirements of the allocation have been met and as such the proposal is acceptable in terms of the impact upon the setting of the church.

Whitechapel Church of England Primary School (Headteacher)

**Officer response:** A planning condition would secure a construction management plan that would ensure that construction workers would not use the school site and that the necessary temporary fencing would be erected at an appropriate stage of the development process to ensure that children did not have access to the site during the construction period. The potential housebuilder has also been in contact with the school to discuss ways of how to inform school children of the dangers of entering a building site, with a likely future school visit. The applicant has confirmed that new boundary fencing would be erected between the site and the school grounds. However, a condition is necessary to secure a suitable fence type that is acceptable to the potential housebuilder, the school and officers.

Planning obligations

10.101 To mitigate the impacts of the proposed development, the following planning obligations would need to be secured via a Section 106 agreement:

- 1) Affordable housing – 25 affordable housing units (tenure split to be 12 units would be discount for sale and 13 units would be for social or affordable rent) to be provided in perpetuity. In accordance with Local Plan policy LP11.
- 2) Open space – Off-site contribution of £72, 608 to address shortfalls in specific open space typologies. In accordance with Local Plan policy LP63.
- 3) Education – Off-site contribution of £479,197 (Whitechapel C of E Primary School - £259,345 and Whitcliffe Mount School - £219,852). In accordance with Local Plan policy LP4.
- 4) Junction monitoring – Off-site contribution of £10,500 for 5no. Bluetooth journey time detectors at the Whitechapel Road / A638 Bradford Road / Hunsworth Lane Traffic Signal-Controlled Junction. In accordance with Local Plan policies LP4 and LP21.
- 5) Core walking and cycle network improvements – Off-site contribution of £20,000 towards the improvement of a link between the site and the Spen Valley Greenway. In accordance with Local Plan policies LP4, LP20 and LP23.
- 6) Bus stop improvements - £23,000 towards the provision of a bus shelter and real time information to bus stops on Whitechapel Road. In accordance with policies LP4, LP20 and LP21.
- 7) Sustainable transport – Measures to encourage the use of sustainable modes of transport, including implementation of a Travel Plan and £10,000 towards Travel Plan monitoring and a sustainable travel fund of £63,426.00. In accordance with Local Plan policies LP4, LP20 and LP21.
- 8) Off-site Biodiversity Net Gain requirements – Contribution (amount to be confirmed) towards off-site measures to achieve biodiversity net gain). In accordance with Local Plan policy LP30.

9) Multi-modal link route to be delivered between the proposed estate road and the boundary of the application site, adjacent to plots 85-89. In accordance with Local Plan policies LP4, LP20 and LP23.

10) Management – The establishment of a management company for the management and maintenance of any land not within private curtilages or adopted by other parties, and of infrastructure (including surface water drainage until formally adopted by the statutory undertaker). In accordance with Local Plan policies LP4, LP27, LP28 and LP63.

10.102 The Community Infrastructure Levy (CIL) is not yet adopted in Kirklees, therefore the council is unable to secure contributions at CIL rates at this stage.

10.103 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (housing developments which would deliver 60 dwellings or more), officers have asked the applicant to agree to provide a training or apprenticeship programme to improve skills and education. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. For this application, the applicant has confirmed that any developer partner would be expected to maximise opportunities for apprenticeships, the employment of long-term jobseekers, and training. Officers have suggested that an Employment and Skills Agreement be entered into.

#### Other matters

10.104 A regional high-pressure gas pipeline runs underneath Whitechapel Road, immediately adjacent to the site's southern boundary. The Health and Safety Executive (HSE) does not advise, on safety grounds, against the granting of planning permission in this case. Northern Gas Networks initially objected to the planning application, due to the potential adverse impact on this apparatus. The agent has been in contact with Northern Gas Networks and as a result further clarification and reassurances have been provided regarding the proximity of the houses to the pipeline and proposed use of the proposed development access point. After receipt of this information, Northern Gas Networks are now willing to rely on their statutory powers and so withdraw their objection.

### **11.0 CONCLUSION**

11.1 The application site is allocated for housing in the Local Plan, and the principle of residential development at this site is considered acceptable.

11.2 The density and layout are satisfactory taking into account the on-site constraints and nature of the surrounding area, including the adjacent listed church. Officers acknowledge the concerns raised by the tree and biodiversity officers regarding the loss of protected trees and not being able to demonstrate an on-site biodiversity net gain. However, officers consider that the necessary planning conditions and obligations can deliver an appropriate tree mitigation strategy and biodiversity net gain that when considered alongside the benefits of the scheme outweighs the harm identified by the relevant consultees. Furthermore, Development Management consider that

the design of the development is appropriate for this setting and that the proposal would not have a significant adverse impact on the local amenity, highway safety or local flood risk.

11.3 The NPPF introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. The proposed development has been assessed against relevant policies in the development plan and other material considerations. Subject to conditions and the signing of the section 106 agreement it is considered that the proposed development would constitute sustainable development (with reference to paragraph 11 of the NPPF) and is therefore recommended for approval.

**12.0 CONDITIONS (Yet to be finalised due to outstanding comments to be received by consultees. Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Development and Master Planning)**

- Three years to commence development.
- Development to be carried out in accordance with the approved plans and specifications.
- Approval of building and external materials.
- Full details of hard and soft landscaping including a detailed planting schedule.
- Full details of boundary treatments within and around the site.
- Full details of the proposed external lighting scheme.
- Measures to prevent and deter crime and anti-social behaviour
- Detailed design of the proposed public footpaths (levels, signage, surface, boundary treatments)
- Submission and implementation of an Ecological Design Strategy / Landscape and Ecological Management Plan (LEMP) / Biodiversity Enhancement Management Plan (BEMP)
- Biodiversity enhancement and net gain.
- Construction Ecological Management Plan (CEMP)
- Tree Mitigation Strategy showing species and planting areas of trees
- Development to be carried out in accordance with the submitted arboricultural method statement.
- Construction cannot commence until Highways England has provided written confirmation that a Construction Management Plan for the site is acceptable;
- Finalised plans for site drainage must not connect into or impact on Strategic Road Network drainage systems;
- Construction cannot commence until Highways England has provided written confirmation that boundary fencing arrangements are acceptable
- Construction details of retaining features adjacent to the highway.
- Construction details of surface water attenuation features within the highway footprint.
- Detailed site plan detailing each individual plots requiring noise mitigation measures as detailed in the SLR Noise report
- Validation Report Confirming Noise Levels Achieved
- Detailed site plan detailing the individual plots requiring a ventilation scheme to habitable rooms as detailed in the SLR Noise report
- Ventilation of habitable rooms if windows need to be kept closed

- Reporting of Unexpected Contamination
- Verification Report for any imported topsoil
- Details of the dedicated facilities that will be provided for charging electric vehicles and other ultra-low emission vehicles
- Construction management plan/s to mitigate the impact of construction on highway safety and amenity.
- Internal road layout details
- Measures to manage parking to manage parking on Whitechapel Road to either side of the proposed access and all associated works, together with
- Appropriate Road Safety Audits
- Submission of a residential travel plan
- The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage
- Provision of site entrance and visibility splays prior to works commencing.
- Cycle parking provision to be provided within the site.
- Provision of waste storage and collection.
- Provision of temporary waste storage and collection during construction.
- Submission of details showing offsite drainage works.
- Submission of detailed design and details of the drainage works.
- Submission of fully worked up drainage design with long sections.
- Submission of details to manage any volumes up to 1 in 100 year plus climate change specifically the flooding noted in microdrainage calculations at the head of systems.
- Submission of details requiring drainage management and maintenance agreement.
- Submission of temporary drainage works information and management and maintenance during construction phase.

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93658>

Certificate of Ownership – Certificate A signed.

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2020/92800 Demolition of existing warehouse and workshop unit and the erection of 3 units with reconfigured access, boundary treatment, landscaping and associated works Land at, Pennine View/Pheasant Drive, Birstall, Batley, WF17 9LT**

### APPLICANT

Mileway Real Estate

### DATE VALID

25-Aug-2020

### TARGET DATE

24-Nov-2020

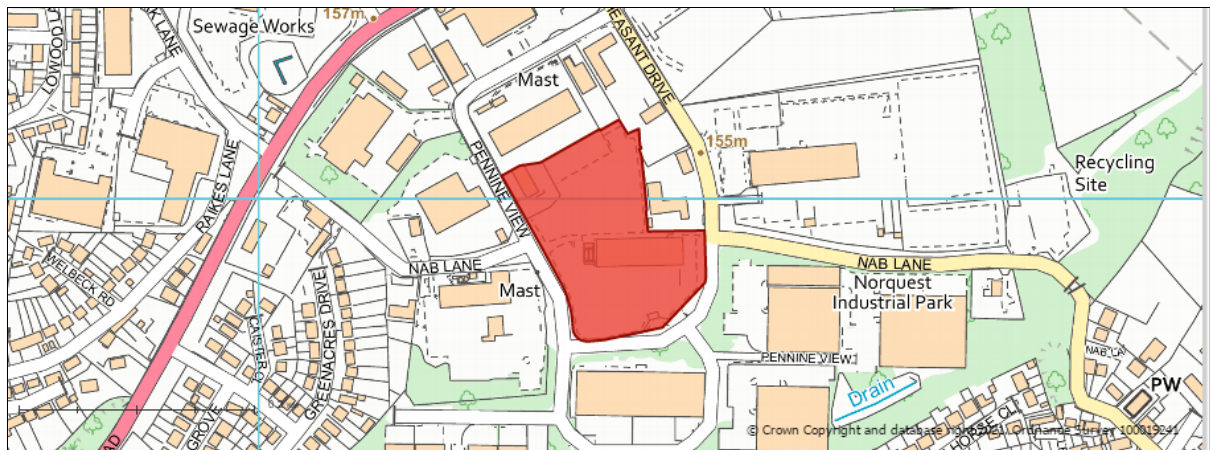
### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Birstall and Birkenshaw**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:** DELEGATE approval of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a Unilateral Undertaking Section 106 agreement to cover the following matters:

- 1) Public Right of Way – Off-site contribution of £36,000 towards the improvement of the local Public Right of Way network.

In the circumstances where the Section 106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the mitigation and benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

## **1.0 INTRODUCTION:**

- 1.1 This application is brought to the Strategic Planning Committee as the site exceeds 0.5ha and the proposal relates to non-residential development.
- 1.2 The full planning application is made by Mileway Real Estate.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The application site measures approximately 1.80 Hectares and consists of a large warehouse and workshop, located between Pennine View and Pheasant Drive, Norquest Industrial Estate, Birstall. The site is located approximately 2.4km (via the A62 Geldard Road) south west of the M62 Junction and approximately 2km north east of Birstall town centre.
- 2.2 The warehouse is set back within the site surrounded by palisade fencing on a grass verge facing Pennine View and Pheasant Drive. It is constructed of metal sheeting with a brick base and has various openings and dock levellers, particularly on the southern elevation, to accommodate the loading and unloading of goods from Heavy Goods Vehicle (HGVs). The remaining space within the site is taken up by hardstanding. Outside the palisade fencing (but within the red line boundary) to the north west of the site, separate from the warehouse consists of a workshop. The workshop is constructed in brick, with openings to the front to accommodate the servicing of vehicles. Attached to the workshop is a two-storey brick building which contains a flat roof. Access is taken directly from Pennine View. The existing warehouse and workshop are currently let to a logistics business on a short-term basis.

- 2.3 The application site is located within an area characterised by employment units, of a similar scale and design to those found at the site. The nearest residential dwellings are approximately 140 metres away from both the southern boundary of the Site (on Moat Hill Farm Drive) and beyond the western boundary (on Greenacres Drive).
- 2.4 The application site forms part of a 'Priority Employment Area.' Reference: PEA46 Oakwell Industrial Park, Centre 27 Business Park & Norquest Industrial Park, Gelderd Road, Birstall, Batley, which has an overall area measuring 61.64 Hectares. The site is located in Flood Zone 1 and there are no listed buildings, conservation areas or tree preservation orders on or near to the site. The application site is located within a High Risk Coal Area. The application site is approximately 150m north of a proposed unnamed Greenway, which forms part of the core walking and cycling network. In addition the site is in close proximity to a number of Public Rights of Way, including BAT/8/20, BAT/8/10, BAT/13/30 which provides pedestrian permeability with the nearby residential areas.

### **3.0 PROPOSAL:**

- 3.1 Full Planning permission is sought for the demolition of existing warehouse and workshop unit and the erection of three employment units for either B1 (c) Light Industry, B2 General Industry and B8 Storage and Distribution with reconfigured access from Pennine View, installation of boundary treatment, associated landscaping, parking and hardstanding for manoeuvrability.
- 3.2 The proposal would mean that there would be a net additional gross internal floorspace of 5086 square metres (Existing gross internal floor space – 2032 square metres; Proposed gross new internal floor space - 7118 square metres).
- 3.3 Unit 1 (3380 square metres) is located towards the northern boundary. It consists of a reception area and warehouse at ground floor and ancillary office space, storage area and welfare facilities on the mezzanine floor. The unit would have a new dedicated access from Pennine View and would provide 47 car parking spaces, together with a service yard with space for a 26m Heavy Goods Vehicle turning circle.
- 3.4. Unit 2 (3068 square metres) is located on the south west corner of the site by the junction with Pheasant Drive and Pennine View. It consists of a reception area and warehouse at ground floor and ancillary office space, storage area and welfare facilities on the mezzanine floor. The unit would share an access with unit 3 at Pheasant Drive and would provide 36 car parking spaces, together with a service yard with space for a 26m Heavy Goods Vehicle turning circle.
- 3.5. Units 3a (253 square metres) and 3b (417 square metres) (Overall 670 square metres) are contained within a single building. Unit 3a would be the smaller of the two units; where unit 3A would consist of be single storey with just warehouse space and no mezzanine level while unit 3B would accommodate a warehouse at ground floor level and a mezzanine storage area. No fixed welfare areas such as w/c's are shown on the plans to provide flexibility for letting as either a single unit or unit 3A and 3B. Drainage 'pop ups' would be provided for both scenarios. The units would share an access with unit 2 at Pheasant Drive and would provide 18 car parking spaces, together with a service yard for Heavy Goods Vehicles.

- 3.6. The elevations will comprise profiled metal cladding with small feature areas around the office of composite metal panels. Aluminium windows and doors with canopies will be used to the office, with steel personnel doors and loading doors to the warehouse.
- 3.7 The landscape proposals include small areas of ground cover planting between buildings and on the edges of car park areas. The remainder of the soft areas will be seeded. A small group of existing trees located on the southern boundary are to be retained with new tree planting, where space allows, to provide some softening to the proposals. The proposal includes bin and cycle storage facilities as well as a sub-station. In addition, a 2.4m high paladin fence is proposed to replace the existing palisade fencing, along with new vehicle and pedestrian gates.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history)**

- 4.1 A number of planning applications have been made for the site, including:
- 2008/92793 (Erection of Fire Escape and New Window Opening) - Conditional Full Permission 29/09/2008
  - 2004/93191 (Alterations to Convert 2nd Floor into Office) - Conditional Full Permission 15/10/2004
  - 2001/92685 (Installation Of 5 No. New Windows) - Conditional Full Permission 05/11/2001
  - 98/90742 (Erection of Extensions) - Conditional Full Permission 24/04/1998
  - 96/93711 (Erection of WC Extension, Installation of Vehicle Wash and Installation of Roller Shutter Doors) - Conditional Full Permission 07/02/1997
  - 93/03042 (Change of Use of Part of Premises from Vehicle Maintenance to Warehousing (B2 - B8)) - Conditional Full Permission 13/08/1993
  - 89/03054 (Erection of Trailer Assembly Workshop, Offices and Hardstanding Areas) - Refused 12/01/1990
  - 86/02250 (Construction of Single Storey Portal Framed Building for Servicing of Company Vehicles) - Granted Conditionally 11/07/1986
  - 79/04534 (Extension to existing distribution warehouse/reposition existing fence, portakabin, dev tank and vehicle wash) - Granted Conditionally 24/08/1979

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme)**

- 5.1 Negotiations during the assessment of this application resulted in additional information provided and site plan amendments made to address consultee comments, regarding location of trees, drainage design, biodiversity net gain, environmental health (land contamination and stability, air quality and electrical charging points), waste storage facilities and collection arrangements.
- 5.2 Also, during the course of the application plans were amended to in minor changes were made to the drawings, including:
- A reallocation of the mezzanine floorspace in unit 2. (The mezzanine office floorspace will increase by 57m<sup>2</sup> at the expense of the

mezzanine storage area that decreases by the same amount. There would be no increase in mezzanine floorspace overall.)

- Removal of an internal staircase and associated ground floor access on the proposed southern elevation
- Additional windows at ground and first floor on the proposed southern elevation
- A small canopy has been included to the main entrance for Units 1, 2 and 3A/B to comply with Building Regulations
- After discussions with Northern Power Grid, the substation has been brought in front of the fence line by the entrance to proposed Units 2 and 3A/B, partly by pushing the fence line back.

5.3 Negotiations have taken place with regards to seeking the necessary financial contributions to the improvement of the surrounding walking and cycling network.

5.4 The applicant has reviewed consultee comments and has queried/disputed some of the proposed wording of the suggested conditions. Negotiations are on-going with regards to these matters.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27/02/2019).

### Kirklees Local Plan (2019):

6.2 Relevant Local Plan policies are:

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP3 – Location of New Development
- LP7 – Efficient and effective use of land and buildings
- LP8 – Safeguarding employment land and premises
- LP9 – Supporting skilled and flexible communities and workforce
- LP13 – Town centre uses
- LP19 – Strategic transport infrastructure
- LP20 – Sustainable Travel
- LP21 – Highways and access
- LP22 – Parking
- LP23 – Core walking and cycling network
- LP24 – Design
- LP27 – Flood Risk
- LP28 – Drainage
- LP30 – Biodiversity and Geodiversity
- LP32 – Landscape
- LP33 – Trees
- LP38 – Minerals safeguarding
- LP51 – Protection and improvement of local air quality
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

## Supplementary Planning Guidance / Documents and other documents:

6.3 Relevant guidance and documents are:

- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)
- Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
- Highway Design Guide (2019)
- Kirklees Economic Strategy (2019)

## National Planning Policy and Guidance:

6.4 The National Planning Policy Framework (2019) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal.

6.5 Relevant paragraphs/chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong competitive economy
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

6.6 Since March 2014 Planning Practice Guidance for England has been published online.

6.7 Relevant national guidance and documents:

- National Design Guide (2019)

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The planning application was advertised in the local press, neighbour notification letters and by site notices (3no. erected around the site on 16/09/2020). No responses were received.

7.2 After the receipt of additional information and amended plans neighbour notification letters were sent. No responses were received.

## **8.0 CONSULTATION RESPONSES:**

8.1 **Statutory:**

Environment Agency: No comments.

KC Highways Development Management: No objection, subject to the imposition of conditions for areas to be surfaced and drained, closure of existing access, method of storage/access for waste, construction access.

KC Lead Local Flood Authority: LLFA support this application subject to minor alterations subject to conditions. Additional information was provided at the time of writing this report and subsequently final comments awaited

Wavin Aquacell Core R BBA Certificate has been received which states a lifespan 'in excess' of 50 years and a suggested maintenance regime.

The LLFA continue to advise the LPA of difficulties of inspection and maintenance of crate storage with sealed membrane design in relation to its obligation to ensure maintenance and management of sustainable drainage for the lifetime of the site. However, we are aware that the LPA has allowed such systems on comparable commercial sites in the recent past. If the Planning Officer is to accept such a structure on a commercial site, he/she must examine the predicted life of the development in relation to the 50 year life expectation of the crate storage and incorporate a replacement into the management and maintenance plan. We advise that a discussion should take place.

We recommend a full maintenance and management plan is required to be executed by a management company under section 106 unilateral undertakings given there are to be separate units on site.

Microdrainage calculations show there is minor flooding in the 1 in 100+30% climate change events. The LLFA advises that some examples are negligible but should try to be addressed if possible, in particular leg 3.000 which is larger in volume. If water in that area can be shown to be safely stored above ground and not run off site this would also be accepted. An adjustment would result in less conditions applied to final response.

It is also noted that general tank sizes are entered into the calculations. For completeness a finalised drawing for both tanks in terms of widths/depths/lengths and quoted void ratios should be submitted. This can be conditioned if necessary.

The inclusion of an oil/petrol interceptor in the design is noted.

A formal risk assessment and method statement for temporary drainage and flood risk/pollution prevention will be required for the construction phase but will be conditioned and can be submitted before commencement of works. This must be a pre-commencement condition given it is part of construction phase management.

Revised drainage strategy was received. This matter will be reported in the agenda update

Health and Safety Executive (Planning Advice Web App): Do Not Advise Against, consequently, HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Highways England: No objection.

The Coal Authority: No objection, subject to conditions requiring the necessary remediation works and any further remediation works/or mitigation measures to address land instability arising from coal mining legacy and the necessary confirmation of completion.

## 8.2 Non-Statutory:

Cadent: No comments as no assets are affected.

Transport Strategy and Policy: Given the nature of the development and the proximity to housing, the Council would look to upgrade the following PROW's to Greenway standard: BAT/8/20 and BAT/13/30. The Council could then look to provide a connection from BAT/13/30 across the communal green space to Bemton Grove. This would provide a link to and from the A62 and the housing in this area to the new units. The total length of this upgrade is 400m. Based on a very basic rate of £200 per linear metre, then a contribution would be £80,000. Although the Council could settle on a contribution of £50,000.

KC Building Control: No objection. However, a Building Regulations application will be required for the works.

KC Ecology: Awaiting further comments due to the submission of additional drainage information. However, there is no objection subject to the submitted Biodiversity Management Plan is to be adopted for a minimum period of 30 years to secure a biodiversity net gain in line with Local and National policy.

KC Conservation and Design: No objection. The proposal site is located within an industrial park constructed in the late 20th century. As there are no designated or non-designated heritage assets within the vicinity of the proposal site, I have no comments on this proposal.

KC Economy and Infrastructure: Fully support. The site in question is already in established business and industrial use and falls within a Priority Employment Area designation as per the Kirklees Local Plan. In view of this, the proposal would appear to be compliant with the development plan. The proposal is in a high market demand area for these types of properties and will therefore bring to the market new purpose built premises to assist in meeting this demand whilst replacing old less desirable stock. The Business and Skills team recognise the potential this development will also have in securing jobs whilst supporting the objective of further job growth and assist in bringing about efficiencies and business growth for the area. 'Works Better' is active in this area, supporting residents into employment and the developer and end users are encouraged to bring employment and skills benefits from the development, which would accord with policy LP9.

KC Environmental Health: Awaiting further comments due to the submission of additional information. However, there is no objection, subject to conditions requiring information in relation to air quality, land contamination, noise, electric charging points, external artificial lighting, construction site working times.

KC Policy: No objection. The proposal is for the demolition of existing warehouse and workshop unit and the erection of 3 units with reconfigured access, the applicant has stated that the development will create 125 job opportunities and therefore the proposed use is considered as employment generating and as such is acceptable in terms of policy LP8, provided there is no conflict with the established employment uses in the area.

KC Trees: No objection, subject to a condition requiring tree replacement of any removed dead or diseased tree after five years.

Northern Gas: No objection.

Yorkshire Water: Awaiting further comments due to the submission of additional drainage information. However, previous comments stated that there was no objection subject to the necessary conditions to protect the local aquatic environment and Yorkshire Water infrastructure.

West Yorkshire Combined Authority: No comments.

West Yorkshire Police Designing Out Crime Officer: No objection. It is disappointing to see that the applicant has dismissed security comments due to the cost implications. As previously stated, the rationale behind the recommendations are the crime statistics for this location, therefore, that is the basis for the advice given asking for higher standards of security. As the applicants are unable to invest in the future security of the site and units for commercial reasons, it is asked that the recommendations be forwarded to any future new tenant, so that they have the appropriate advice for the security of their individual units.

West Yorkshire Archaeology Advisory Service: No objection. The West Yorkshire Historic Environment Record has been checked and there are no apparent significant archaeological implications associated with the development of the site.

## **9.0 MAIN ISSUES:**

- Principle of development
- Urban design
- Local amenity
- Highways and transportation
- Flood risk and drainage
- Biodiversity and landscape
- Ground conditions
- Representations
- Climate change
- Other matters

## **10.0 APPRAISAL:**

### Principle of development

10.1 Paragraphs 7 and 8 of the NPPF confirm that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 11 indicates that planning decisions should apply a presumption in favour of sustainable development and for decision taking should therefore:

- seek to approve development proposals that accord with an up-to-date development plan without delay; or

- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, grant permission unless:
  - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

10.2 The NPPF makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 80 of the NPPF states:

*“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development...”*

10.3 The planning application would result in the redevelopment of an existing employment site within a designated Priority Employment Area (Reference: PEA46). The purpose of the designation is to protect and encourage the provision of uses likely to generate employment.

10.4 This employment area was assessed as part of our PEA Assessment (B&S3) and was considered at the time of assessment as being a large modern site with ample room for HGV manoeuvring and capacity for expansion of existing units. The allocation of land as PEA’s allows for churn and supports the growth aspirations of the small and medium sized businesses (SME’s) established in Kirklees. These existing employment areas will need to be retained if jobs are continued to be provided in locations which are close to residential areas and reasonably accessible by public transport.

10.5 It is understood that 5 persons were employed within the existing garage unit which is now vacant and circa 20 persons are currently employed within the existing warehouse. Supporting information explains that the two existing buildings are no longer fit for purpose for modern business requirements. In addition, the site would be developed more efficiently with the creation of four modern purpose-built units that would be available and marketed for B1c, B2 and or B8 use. Supporting information also explains how the provision of the new units will provide additional employment opportunities for local people and is expected to generate circa 100-150 jobs (on top of construction jobs).

10.6 Therefore, the planning application would positively contribute to the local economy with the potential creation of additional jobs and investment. It is considered that, subject to this proposal not compromising the key sustainable development principles set out in the NPPF, this development is acceptable in principle and in accordance with Local Plan policies LP7 and LP8. However, in accordance with the policy objective, it is considered that the necessary planning condition is imposed to restrict the uses of the employment site so that there is no adverse impact on town and local centres.

## Urban design

- 10.7 The proposal is defined in section 3.0 of the report. The application site forms part of a larger urban block surrounded, predominately by warehouses and workshops set within service yards and car parks, some of which benefit from soft landscape treatments. The local area is very much 'commercial' in character, with buildings having a functional appearance, constructed from either brick, metal cladding and glazed panels.
- 10.8 Officers consider the proposed layout of the development makes the most efficient use of employment space of the site, whilst respecting its neighbours. Supporting information explains that by creating three separate units with their own yards and boundary treatment, the scheme will attract a diverse mix of prospective tenants which is important given the development is being undertaken on a speculative basis.
- 10.9 It is understood that the proposed scale, massing and height of the development has been partly dictated by the use and functional requirements of prospective owners. The two larger units, unit 1 and unit 2 have been designed with an approximate eaves height of 11 metres and approximate ridge height of 12.5 metres, with a clear height of 10m to haunch within the warehouse space, allowing for supporting office use at first floor level. Whilst, the small units, units 3A & 3B have been designed with an approximate eaves height of 7 metres and approximate ridge height of 8.5 metres, with a clear warehouse height to haunch of 6.5m. Officers consider the proposed scale, massing and height is acceptable and in keeping with the existing surrounding built environment.
- 10.10 Supporting information explains how the units will be constructed around a steel frame and will utilise similar materials to the buildings in its context. Elevational plans show the use of horizontally laid profiled cladding panels in dark grey at lower level with panels of horizontally laid cladding contrasting in a lighter grey at eaves level with a band of mid grey composite cladding between the two. Feature vertically laid composite panels are shown clad around the entrance area and the office windows to highlight this part of the building. Loading and escape door areas are highlighted by surrounding walls being clad in vertical profiled cladding in mid grey. Supporting information explains how the frontage of the elevations, visible upon arrival at the building, have been designed to frame the entrance and form an aesthetically pleasing feature upon entry to the site and the associated parking areas.
- 10.11 It is noted that the proposal will result in a large-scale building (unit 2) closer to Pennine View and with a blank façade, with limited visual interest and soft landscaping. However, officers consider that overall, the buildings have been well designed and would generally enhance the appearance of the site. Officers recommend that the proposed facing and roofing materials are secured by condition to ensure that the proposed colours and materials reflect nearby buildings.
- 10.12 It is therefore considered that this proposal would assimilate well within this setting and would therefore accord with Kirklees Local Plan policies LP24 and chapter 12 of the NPPF with regard to its design.

## Local amenity

- 10.13 With regards to residential amenity, the nearest residential dwellings are sited approximately 140 metres from both the southern boundary of the application site on Moat Hill Farm Drive and the western boundary on Greenacres Drive. Commercial, business and industrial units and associated mature landscaping can be found within these intervening areas. As such, it is considered that there would be no impact on residential amenity in terms of overlooking, overshadowing or over-dominance.
- 10.14 The new buildings would be substantial in size but would be of a scale similar to other commercial premises in the immediate vicinity. The split-level design which involves setting the building into the hillside would help to reduce its visual impact when viewed from Huddersfield Road. To the south there is a proposed Greenway and a Public Right network, with the nearest being a public footpath at Pennine View (Reference: BAT/8/20) located approximately 30 metres from the site's south west corner. The proposed buildings would be visible from this public footpath. The public footpath is already partially characterised by large scale commercial buildings set within service yards and defined by soft landscaping features, of which the site currently contributes. Therefore, it is unlikely that this development would unacceptably affect the users' experience of this PROW.
- 10.15 Given the increase proposed increase in built form on the application site, there would be an effect on the visual amenity of the area. However, it is considered that this impact would be limited to the immediate vicinity and acceptable, given the sites current use and its local context, which already consists of similar buildings that surround the site. Furthermore, officers consider the proposed building design and soft landscape measures could satisfactorily mitigate any associated detrimental effects to visual amenity.
- 10.16 This proposal would result in the intensification of use at the site which potentially could result in additional new/additional noise-generating development in the area. The applicant has submitted a Noise Impact Assessment (NIA) Report, prepared by Hann Tucker Associates, dated 20 August 2020 (Reference: 27701/NIA1). An unattended assessment was undertaken from 1330 hrs on Wednesday 26 March 2020 to 1600 hrs on Thursday 27 March 2020 in order to establish typical noise levels over a typical 24 hour period. Whilst unattended, the dominant noise source contributing to the background sound level was noted to be distant traffic noise from the M62. Noise from the internal activities, delivery vehicles, car parking has been considered and deemed to be low impact. Environmental Health officers have reviewed the report and accept its finding. However, officers consider that as no information is available for any proposed mechanical plant, a suitably worded planning condition is therefore necessary to control any such noise.
- 10.17 During the course of the planning application a plan was submitted showing the proposed external areas of the site that will need to be lit during some or all of the hours of darkness. Inappropriate external artificial lighting can result in unnecessary stray light and glare. A suitably worded planning condition is necessary to ensure that a detailed external lighting scheme is achieved that is appropriate for the intended use without causing unnecessary stray light and glare and is only operated at times when it is required.

- 10.18 During the planning application process, Environmental Health considered the development would be classified as having a major impact on air quality in accordance with West Yorkshire Low Emissions Strategy (WYLES). Therefore, the proposed intensification of commercial use at the site would potentially impact on local air quality. Consequently, the applicant should demonstrate that any impact on air quality associated with this proposal can be adequately offset through the introduction of measures within the development. As such, Environmental Health officers recommended a condition requiring an Air Quality Impact Assessment.
- 10.19 The applicant subsequently submitted an Air Quality Assessment, prepared by Redmore Environmental, dated: 8<sup>th</sup> December 2020 (Reference: 4137r1), which has been reviewed by Environmental Health officers. The report provides a review of existing air quality and considers the impact of the proposed development on local air quality during both the construction and operational phases.
- 10.20 For the construction phase dust generating activities were assessed in accordance with the Institute of Air Quality Management (IAQM) – Guidance on the Assessment of Dust from Demolition and Construction V1.1 2016 methodology. The report concludes that fugitive dust emissions generated by demolition, earthworks, construction and track out activities are predicted to be not significant, assuming that good practice dust control measures are implemented as detailed in Table 17 – Fugitive Dust Emission Mitigation Measures (page 26) of the report.
- 10.21 For the operational phase a screening assessment was undertaken using the criteria contained in the IAQM – Land-Use Planning & Development Control: Planning for Air Quality guidance to determine the potential of the number of trips generated by the development to affect air quality. The net change in traffic flow as a result of the development was provided by Vectos the Transport Consultants for the project and is predicted to be 160 total daily trips 53 of which are predicted to be HDV movements. The report concludes that this is predicted to be not significant as it does not exceed the AADT HDV flows by 100 on any link. However, as the development is classified as major and in accordance with the WYLES guidance a damage cost calculation has been provided in order to determine the amount (value) of mitigation required to offset the detrimental impact that the development will have on air quality. The calculation was undertaken using the most recent damage costs released by DEFRA in July 2020 and provides a five-year exposure value to the sum of £15,968. A number of mitigation measures have been suggested based on this sum and these have been listed in section 5.4.9 Mitigation (page 31) of the report in addition to a breakdown of costs which have been provided in Table 21 Mitigation Measures and Associated Costs.
- 10.22 Environmental Health officers agree with the findings of the submitted Air Quality Assessment and welcome the amended proposed site plan showing the location of 10 parking spaces where electric vehicle charging points will be provided. As such, it is considered that subject to the necessary conditions securing the necessary mitigation measures and electrical vehicle charging points.

- 10.23 Officers consider that subject to the necessary conditions, this proposal would accord with Kirklees Local Plan policies LP51, LP52 and chapter 15 of the NPPF with regard to its potential impacts on local amenity.

Highways and transportation

- 10.24 The planning application is supported by a Transport Statement, prepared by Vectos Transport Planning Specialists, dated August 2020 (Reference: VN201577).
- 10.25 The site is bounded by Pheasant Drive in the east and south and Pennine View in the west. Access onto Pheasant Drive and the site itself is provided from the A62 Gelderd Road to the north. Pheasant Drive forms two junctions with Pennine View. Pheasant Drive has a carriageway width of approximately 6.8m – 7.0m and footways on both sides of approximately 1.8m – 2.0m. Due to the generous width of Pheasant Drive, Pheasant Drive has unrestricted kerbside. Street lighting is provided at regular intervals. Pheasant Drive and Pennine View are subject to a 30mph speed limit.
- 10.26 The existing industrial unit gains access from a junction with Pheasant Drive, in the south. The existing access has a large kerb radius to assist with the movement of HGV vehicles in/out of the site. The existing workshop (car servicing and leasing garage) in the north-west corner of the application site gains access from two access points off Pennine View. The largest of these access points provides access to the workshop and vehicle servicing area. The smaller of these access points provides access to a hardstanding and staff parking to the rear. Pedestrian access into the site is gained via the footways present on Pheasant Drive and Pennine View. A pedestrian only footpath is situated to the south of the site, to the east of the existing industrial units' vehicular access on Pheasant Drive. Footpaths at the access of Pheasant Drive do not currently extend into the site.
- 10.27 The Transport Statement explains how access (visitor/staff and operational) to Unit 1 would be gained via a priority junction from Pennine View. Access (visitor/staff and operational) to Unit 2 and Unit 3 (3A & 3B) would be gained via the existing junction off Pheasant Drive, to the south of the site. This access will therefore be retained under the proposal, with the existing footways extended into the site. It is predicted that the proposed development would generate 22 additional vehicle trips in the morning peak hour and an additional 13 vehicle trips in the evening peak hour, compared to the sites existing use. It is considered that this level of trip attraction would be well within the daily variations expected in background traffic volume.
- 10.28 Highways Development Management have reviewed the planning application. It is considered that the proposed access arrangements to utilise a satisfactory existing access onto Pheasant Drive and a proposed new access from Pennine View. The proposed new access is considered sufficient in width with appropriate junction radii and sight lines onto Pennine View are acceptable in both directions. Highways Development Management are satisfied with each of the proposed units proposed parking provision (101 spaces in total, including 7 accessible spaces) and service areas. Acceptable swept paths are provided to demonstrate that a 16.5m articulated lorry can access and turn within the site. Swept paths are also provided to both junctions and to each of the servicing areas to the 3 proposed units. Parking accumulation surveys have been undertaken to demonstrate that sufficient off-street parking provisions are provided.

- 10.29 Highways England and Highways Development Management have reviewed the planning application and raise no objections. Highways Development Management consider the proposed level of traffic generation would not cause a detrimental impact upon the operation of the surrounding junctions and highway network.
- 10.30 Highways Development Management have requested planning conditions in relation to areas to be surfaced and drained; closure of existing access; method of storage/access for waste; and construction access. No planning obligations have been requested.
- 10.31 Development Management acknowledge that the proposal is supported by a Framework Travel Plan, which considers the potential for the use of sustainable modes of transport in connection with this proposal. This plan also indicates measures which could be introduced and how they could be implemented to encourage sustainable transport use. It concludes that owing to the existing industrial employment use of the site and the level of industrial employment that is in proximity to the site, the site already benefits from good sustainable infrastructure. Therefore, the existing sustainable infrastructure will allow for sustainable trips to be made by future staff (and possibly customers). Officers agree that the sustainable transport goals can be achieved. However, in accordance with the Highways Design Guide a full travel plan would be required. The full travel plan will ensure that the proposals are fully implemented and monitored in parallel with the development and occupation of the units. Furthermore, the full travel plan will allow for any necessary further actions to be taken within a fiveyear period, once the development is occupied. Officers consider that this could be satisfactorily achieved by the inclusion of a planning condition.
- 10.32 It is also acknowledged that the proposed development would provide an appropriate level of cycle parking based on the actual estimated occupancy of the proposed units (Unit 1: 8 spaces; unit 2: 8 spaces; unit 3: 4 spaces). Officers also acknowledge that the proposed development would provide spaces with an appropriate level of electrical vehicle charging points. Also, it is acknowledged that the proposal would be in close proximity to a frequent bus service on the A62 Geldard Road as well as sited near to a Public Rights of Way network.
- 10.33 Officers consider that subject to the necessary planning conditions, the proposal would accord with policies LP20, LP21 and LP22 as well as NPPF chapter 9. Development Management consider that the opportunity to enhance the nearby core walking and cycling network would be missed.

#### Flood risk and drainage

- 10.34 The planning application is supported by a sitespecific Flood Risk Assessment (FRA), prepared by Terra 97, dated 16/04/2020 (Reference: 3685). The site is located within Flood Zone 1 and is therefore at low risk of flooding. The FRA has assessed all of the potential sources of flooding. It considers that the site is not at risk of flooding from a major source (e.g. fluvial and/or tidal). Sewer flooding has been potentially recognised as a secondary flooding source. However, this has been considered as low or not significant. The FRA has explained how flooding sources will only inundate the site to a relatively low water depth and water velocity, will only last a short period of

time, in very extreme cases and will not have an impact on the whole of the proposed development site. The FRA concludes that the flood risk to the site can be considered to be limited; the site is situated in Flood Zone 1, with a low annual probability of flooding and from all sources. The site is unlikely to flood except in very extreme conditions.

- 10.35 The Lead Local Flood Authority (LLFA) initially objected to the application and requested further information about the existing surface water drainage infrastructure and further clarification as to how the proposal would fully address Local Plan policy LP28.
- 10.36 Further drainage related information was provided to address the LLFA concerns, including a Drainage Design Technical Note, prepared by XOsquare Limited Consulting Engineers. The Technical Note explains how previous investigations at the site have found that the site is situated over rock. As clay soils have poor infiltration rates, infiltration will be unsuitable at this site. There are no watercourses local therefore, discharge to a watercourse is not viable for the discharge of surface water at this site. As such, plans show the use of attenuation Geocellular attenuation tank features to provide a 30% betterment in into the surrounding surface water sewer at Pheasant Drive at a discharge rate to 58 l/s. The additional information has been reviewed by the LLFA who now do not object to the proposal but have provided further comments as highlighted in section 8 of this report.
- 10.37 The Drainage Design Technical Note explains how all foul water arrangements would be subject to a detailed design and S185 agreement with Yorkshire Water. Plans show that foul water would be diverted and pumped to a connection with a foul water sewer at Pennine View at a rate of 3 l/s. At the time of writing this report, Yorkshire Water had yet to provide further comments but had not objected to the proposal previously, subject to the necessary planning conditions.
- 10.38 Therefore, as there are no objections from the Environment Agency, the LLFA and Yorkshire Water, subject to the necessary planning conditions and obligations that the proposal would accord with Local Plan policy LP27 and LP28 as well as NPPF chapter 14.

#### Biodiversity and landscape

- 10.39 An Ecological Appraisal, a Biodiversity Management Plan (BMP) and soft landscape proposals, all prepared by FPCR Environment and Design Ltd were submitted with the planning application. During the course of the planning application the BMP and soft landscape proposals were amended in response to KC Ecology comments in demonstrating a biodiversity net gain. The soft landscaping proposals were also revised in response to KC Trees and KC Landscape (verbally). These consultees requested additional tree planting positioned at a suitable distance from the proposed perimeter fencing, for visual amenity as well as management and maintenance purposes.
- 10.40 The majority of the application site comprises developed land which included two buildings and hardstanding. Other habitats present included ephemeral/short perennial vegetation, amenity grassland and a small area of scattered scrub. The trees on site are smaller semimature individuals and of poor quality, therefore they do not meet the criteria for a new Tree Preservation Order to be served.

- 10.41 The Ecological Appraisal explains how the proposal would compromise of already developed land but would result in the loss of the majority of existing habitats within the site. The Appraisal states that given the low to negligible ecological value of the habitats recorded and the proposed habitat creation within the landscaping strategy, the site would deliver a measurable biodiversity net gain.
- 10.42 Officers consider that the proposals would be not result in any significant ecological harm. Subject to the imposition of conditions securing the necessary mitigation and biodiversity net gain, the proposal would accord with Local Plan policies LP24, LP30, LP32 and LP33, as well as NPPF chapter 15.

#### Ground conditions

- 10.43 A Phase 1 Preliminary Risk Assessment, prepared by Terra97 Ltd, dated 9th April 2020 (Reference: C20315P) was submitted as part of the planning application. The Phase I indicates that there is a potential for contamination to pose a risk to the development due to visual indications of contamination identified on the site walkover. These include chemical drums spilling into site boundary from adjacent land use. The site history appraisal also indicates several historical land uses onsite and offsite which are potentially contaminative such as an industrial estate, colliery spoils and engineering works. The Phase I report findings reflect Environmental Health records for the site, which has been identified on the Council's mapping system as potentially contaminated land due to its previous use (Site reference 63/2). For that reason, Environmental Health and the Coal Authority requested conditions requiring that prior to development commencing an intrusive site investigation is carried out and that adequate remediation measures are implemented to deal with any contamination found and/or any land stability issues addressed.
- 10.44 During the course of the planning application, further information, including Ground Investigation Reports and Remediation Method Statement were received to try to avoid the need for pre commencement conditions. However, consultees found that the submitted documentation was inadequate and have recommended the same pre commencement conditions to address land contamination and land stability.
- 10.45 The application site falls within an area designed as a Mineral Safeguarded Area (Surface Coal Resource with Sandstone and/or Clay and Shale) in the Local Plan. This allocation indicates that there is the potential for these mineral resources to be underlying the site. Officers consider that as there is an overriding need for employment land within the district and as such the proposal can be permitted under clause 1c of Local Plan policy LP38.
- 10.46 It is therefore considered that this proposal accords with Kirklees Local Plan Policies LP38 and LP53 as well as NPPF chapters 11 and 15 with regard to potential contaminated and unstable land and minerals safeguarding issues.

#### Representations

- 10.47 None received.

## Planning obligations

- 10.48 As highlighted in section 8 of the report, the Transport Strategy and Policy team have suggested a financial contribution should be sought towards the local core walking and cycling network. After negotiations with the applicant it has been agreed that a financial contribution of £36,000 would be provided to improve an existing public footpath network (Reference: BAT/8/20 and BAT/8/10). This public footpath can be found immediately south of the site and connects the industrial estate at Pennine View with a residential area at Moat Hill Farm Drive. This would tie into an existing 'greenway' and improve this north/south link between a residential and an (established) employment area. It is considered that this financial contribution would meet the tests set out in paragraph 56 of the NPPF and ensure that the proposal is in accordance with Local Plan policy LP23. It has been agreed that to fit in with the applicant's build programme, a pre-occupation trigger point for payment would be set out within a Unilateral Undertaking.
- 10.49 Previous LLFA comments requested that a full maintenance and management plan is required to be executed by a management company under section 106 unilateral undertakings given there are to be separate units on site. At the time of writing this report the applicant has submitted further information regarding this matter. In addition, they have requested that it be dealt with by planning condition than obligation in accordance with NPPF paragraph 54. Comments have yet to be provided by the LLFA.
- 10.50 The Community Infrastructure Levy (CIL) is not yet adopted in Kirklees, therefore the council is unable to secure contributions at CIL rates at this stage.
- 10.51 The provision of training and apprenticeships is strongly encouraged by Local Plan policy LP9, and as the proposed development meets the relevant threshold (3,500 sq.m. or more of business or industrial floorspace). Officers have asked the applicant to agree to provide a training or apprenticeship programme to improve skills and education. Such agreements are currently not being secured through Section 106 agreements – instead, officers are working proactively with applicants to ensure training and apprenticeships are provided. The applicant has stated that they share the council's desire to support and promote the employment opportunities of local Kirklees residents. The applicant intends to instruct a regional contractor to construct the proposed employment units, but they are being built on a speculative basis and so do not yet know who will occupy the premises. As such, officers have suggested that to maximise opportunities for apprenticeships, the employment of long-term jobseekers, and training that an Employment and Skills Agreement be entered into.

## Climate change

- 10.52 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target,

however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

- 10.53 It is considered that the proposal would result in modern employment units with the efficient use of an existing industrial site that is already considered to benefit from being accessible by modes of sustainable travel. Supporting information explains how the applicant has considered how to maximise natural light through roof lights; conservation of energy through the use of building materials; the employment of measures to reduce water consumption; as well as provide employment units with a structural frame that could accommodate PV cells. It is understood that the employment units have been designed to target a BREEAM 'Very Good' rating.
- 10.54 The applicant has submitted a Framework Travel Plan as well as a site plan showing the necessary electric vehicle charging points. Conditions can ensure that these measures are effectively secured to promote low carbon forms of transport which will help to mitigate the impact of the development on climate change. The proposal will deliver a financial contribution towards the enhancement of the Public Right of Way network, which will enable and encourage more local people to walk and cycle to and from the site. All these measures will help to promote sustainable travel measures, including by staff of the proposed development.

#### Other matters

- 10.55 During the course of the planning application, the West Yorkshire Police Designing out Crime officer requested a number of security enhancements to the proposal to prevent and deter commercial burglaries. The officer initially requested planning conditions in relation to fencing and gate types, locking systems, security specifications of the buildings, vehicle restrictions, location of cycle shelters, and CCTV systems. The applicant stated that such conditions would be contrary to the tests set out in NPPF paragraph 54-56. The applicant explained that the proposed security fencing and wall construction is designed and regularly used in industrial estates throughout the Country and there is no basis for requiring a higher and more expensive specification in this case. The applicant has also stated that such specifications requested would have a major additional cost implication. The officer has since removed their request for such conditions and request that their advice be passed on to future tenants. Development Management welcome this approach as such security related advice can only be considered to be advisory and security preferences need to be weighed against future landlord and different tenant preferences.
- 10.56 The planning application site falls within the Middle Zone of a hazard site, located at the Tennants Distribution Ltd. Gelderd Road, Birstall. Officers have used the HSE's planning advice web app to verify the Health and Safety Executive (HSE) advice. Based on this web app, the HSE does not advise, on safety grounds, against the granting of planning permission in this case.

## **11.0 CONCLUSION:**

- 11.1 This application site is located within a Priority Employment Area. The principle of efficiently using an existing employment site is considered to safeguard its future use and have the potential to enhance the local economy in accordance with Local Plan policies LP7 and LP8.
- 11.2 The design of the proposed new units are considered to be satisfactory and the development would not appear as incongruous within this particular setting, which has similar structures within close proximity. Furthermore, it is considered that this development would not have a significant detrimental effect on local amenity, the local environment or highway safety, subject to the imposition of the necessary conditions.
- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Standard 3 years for implementation
2. Development to be carried out in accordance with approved plans
3. The approval of facing and roofing materials
4. Restriction of permitted employment uses
5. Implementation of agreed Air Quality Mitigation Measures
6. Implementation of agreed Dust Mitigation Scheme
7. Submission of a Phase 2 Intrusive Site Investigation Report
8. Submission of Remediation Strategy
9. Implementation of the Remediation Strategy
10. Submission of Validation Report
11. Noise from fixed plant & equipment shall not exceed background sound levels
12. Installation of the approved electric vehicle charging points (10 parking spaces)
13. Submission of an external artificial lighting scheme
14. Work to be carried out in accordance with the council's set construction site working times
15. Implementation and future maintenance of the approved landscaping scheme
16. Separate systems of drainage for foul and surface water on and off site
17. Submission of an oil, petrol and grit interceptor/separator design
18. Submission of the measures to protect the public sewerage infrastructure
19. Accordance with the approved Biodiversity Management Plan
20. Remediation works and any further remediation works/or mitigation measures to address land instability arising from coal mining legacy

21. Submission of a document confirming the completion of the remedial works and any further remediation works/or mitigation necessary to address the risks posed by past coal mining activity
22. The proposed car parks and vehicle servicing areas shall be laid out surfaced, marked out into bays and drained in accordance with details that have previously been approved
23. Implementation of the closure of the existing access point and construction of the proposed new access points
24. Details of storage and access for collection of wastes from the premises
25. Submission of a construction management plan
26. Submission and implementation of a full travel plan
27. Drainage related conditions (comments awaiting from LLFA)

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2020/90710 Partial demolition, partial re-build, erection of extensions and alterations to mill to form 63 apartments and erection of 64 dwellings (Within a Conservation Area) Westwood Mill, Lowestwood Lane, Linthwaite, Huddersfield, HD7 5RR**

### APPLICANT

Westwood Wilson Ltd

### DATE VALID

05-Mar-2020

### TARGET DATE

04-Jun-2020

### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

### LOCATION PLAN



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Colne Valley**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to:

- Obtain confirmation from the Environment Agency that the amendment to the site layout, as referred to within this report, does not materially alter compensatory flood storage;

- Complete the list of conditions, including those contained within this report; and

- Secure a S106 agreement to cover the following matters:

1. Arrangements for the future maintenance and management of the areas of public open space, mill pond, settling pond and other areas of land that do not fall within private curtilage.

2. Arrangements for the future maintenance and management of drainage infrastructure within the site.

3. Phasing of the development, including the restoration of the listed building within the first phase.

4. Overage clause in relation to the cost of the conversion of the listed building.

5. £17,000 contribution towards off-site highway improvements.

6. £73,000 towards education provision.

7. On-site open space inspection fee (£1,000).

8. Secure the dedication of the proposed public right of way through the site.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

1.1 The application is brought forward to the Strategic Planning Committee because of the scale of residential development proposed. This is in accordance with the Council's Scheme of Delegation.

## **2.0 SITE AND SURROUNDINGS:**

- 2.1 Westwood Mill is located in the bottom of the Colne Valley and is sandwiched between the River Colne to the south and the Huddersfield Narrow Canal to the north. Low Westwood Lane runs across the valley and provides the access to the site. The site comprises of a complex of historic mill buildings and structures that are in a very poor state of repair and have previously been subject to emergency action to stabilise them.
- 2.2 The site lies in the Linthwaite Conservation Area. The existing mill buildings and structures do not lie in the Green Belt but land on either side to the east and west comprises Green Belt land.
- 2.3 There are five Grade II\* listed buildings and structures within the Westwood Mill complex. These are: -
- East block of Westwood Mills - Warehouse and workshop range – early 19th Century with later additions.
  - Office and workshop range at Westwood Mills – Office and workshop range – early 19th Century with later additions.
  - Boiler house and engine house and rope race, water tower and powerhouse at Westwood Mills.
  - West Block at Westwood Mills – Scribbling, carding and fulling mill
  - Mill dam – 1801 – pond also supplied water to the small mill dam at Lower Mill to the south-east now called Titanic Mill.
- 2.4 There is a large Grade II listed building towards the east of the site (Titanic Mill) which contains apartments and a spa. To the south of the site, on the opposite side of the river, is some commercial development. To the north of the canal is a mixture of undeveloped land and residential development with the railway line beyond. To the west of the site is greenfield land.

## **3.0 PROPOSAL:**

- 3.1 The proposal is for the full restoration of the listed mill buildings to form 63 apartments together with the erection of 64 new build dwellings (127 dwellings in total).
- 3.2 The new build dwellings form six distinct blocks of terraced dwellings which are located on both sides of the listed buildings. The new build dwellings would be a mixture of three and four storeys in height, with a proportion of the dwellings being split level.
- 3.3 The works to the listed buildings involve the partial demolition, rebuild and extension of the listed buildings.
- 3.4 The scheme includes the restoration of the original mill pond and the provision of a swathe of open space towards the west of the site. The settling pond immediately adjoining Lowestwood Lane would be retained and restored.

#### **4.0 RELEVANT PLANNING HISTORY:**

4.1 The following applications relate to the application site:

2020/90711 Listed Building Consent for the partial demolition, partial re-build, erection of extensions and alterations to mill to form 63 apartments and erection of 64 dwellings – Undetermined

2005/90818 Partial demolition, conversion of redundant mill building and new build to form 108 apartments with ancillary facilities – Approved

2001/91066 Conversion of redundant mill buildings and new build to form 50 apartments and dwellings with viewing area and parking – Approved

89/06149 Change of Use from industrial mills to hotel and restaurant – Approved

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 The scheme has been the subject of formal pre-application advice. Advice was provided in 2018 on a proposed development for the part demolition and part conversion of the existing mill to form 64 apartments and the erection of approximately 66 dwellings (reference 2018/20130). This proposal was presented to the Strategic Planning Committee on 5<sup>th</sup> July 2018 and Members also carried out a site visit. The officer report summarises the main constraints and restrictive planning policies that would affect the scheme, particularly Green Belt and heritage considerations as well as flood risk issues. Technical advice was also provided on highway and ecology matters.

5.2 The layout as proposed under the current planning application is broadly very similar to the pre-application scheme and the submission has sought to respond to the advice that was provided at pre-application stage.

5.3 The proposed layout of the site has been amended during the course of the application to mitigate the risk of flooding to the development. The terraced blocks to the west of the mill have been pushed further to the west in order to remove development from a part of the site that was at the greatest risk of the most severe flooding. As part of this amendment the two blocks of terraced houses that were originally proposed have been split into three blocks. The level of the internal access road has also been raised in this location to mitigate the potential impact of flooding.

5.4 Layout amendments and additional information have been provided to address highway matters. Additional information has also been provided to support the ecological assessment and negotiations undertaken with respect to on-site open space and the Section 106 offer.

## **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

### **6.2 Kirklees Local Plan (2019):**

LP1– Presumption in favour of sustainable development  
LP2 – Place shaping  
LP3 – Location of new development  
LP4 – Providing infrastructure  
LP5 – Masterplanning sites  
LP7 – Efficient and effective use of land and buildings  
LP11 – Housing mix and affordable housing  
LP20 – Sustainable travel  
LP21– Highway safety and access  
LP22 - Parking  
LP24 – Design  
LP27 – Flood risk  
LP28 – Drainage  
LP29 – Management of water bodies  
LP30 – Biodiversity and geodiversity  
LP32 – Landscape  
LP33 – Trees  
LP34 – Conserving and enhancing the water environment  
LP35 – Historic environment  
LP47 – Healthy, active and safe lifestyles  
LP49 – Educational and health care needs  
LP51 – Protection and improvement of local air quality  
LP53 – Contaminated and unstable land  
LP59 – Brownfield sites in the Green Belt  
LP63 – New open space

### **6.3 Supplementary Planning Guidance / Documents:**

Highway Design Guide SPD

### **6.4 National Planning Guidance:**

Chapter 2 - Achieving sustainable development  
Chapter 4 – Decision-making  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 8 – Promoting healthy and safe communities  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed places  
Chapter 13 – Protecting Green Belt land  
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving and enhancing the historic environment

6.5 Other material considerations:

[Kirklees Interim Affordable Housing Policy \(2020\)](#)

[National Design Guide](#)

[Planning Practice Guidance](#)

West Yorkshire Air Quality and Emissions Technical Planning Guidance

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been advertised by site notices, press advert and neighbour notification letters. In response to the publicity nine representations have been received. It should be noted that a number of the representations express broad support for the restoration and redevelopment of the site although this is qualified by issues/concerns with some of the proposed details and technical matters. A summary of the comments received is provided below.

*General principle*

- The quantum of new development stretches the enabling argument to its limit.

*Design*

- Concerns raised with the quality of design of the new build elements
- Dominance of vehicular parking detracts from the overall scheme, particularly the parking around the central green and the garage doors to the properties.
- The external amenities around the water areas are too heavily influenced by roads and parking.
- New dwellings are too close to the canal and will have a detrimental impact on the visual amenity of the canal.

*Heritage*

- Development will negatively affect the Conservation Area
- The archaeology of the site needs to be investigated
- The supporting heritage information submitted by the applicant is insufficient

*Highway issues*

- Concerns with the impact of the additional traffic that would be generated on the local highway network. Existing traffic problems within the vicinity of the site would be exacerbated. The local road network is not suitable to accommodate heavy traffic.
- Concerns that insufficient traffic modelling has been undertaken by the applicant
- Concerns that the development will add to existing parking problems in the locality. Already parking issues associated with Titanic Mil and people accessing the canal.

### *Flood risk*

- Residential development inappropriate on a flood plain.
- Concerns with the impact on the hydrological flow characteristics within the river Colne flood plain.
- Concerns with the impact of nearby chemical factories being flooded on the proposed and existing residential development.
- Has the flood risk assessment taken into account climate change?

### *Ecology*

- Detrimental impact on the site's wildlife value.
- Ecological enhancement is concentrated towards the undeveloped part of the site; the developed part of the site offers little in the way of ecological benefit.

### *Other matters*

- Impact on local infrastructure such as schools and medical facilities. Local infrastructure is already overstretched.
- Impact on trees.
- There is not a need for additional dwellings in this location.
- The canal towpath is an important green corridor that needs protecting.
- Potential contamination needs to be adequately addressed.
- Will any parking spaces be made available for visitors to the canal?
- Will a room within the mill building be used to show the industrial history of the site and local area?
- The history of the mills should be presented within interpretation boards to allow people to appreciate the textile heritage of the area.
- A dedicated right of way through the site from Low Westwood Lane to the canal towpath is welcomed and should be designed to minimise potential conflict with vehicles.

7.2 Since the aforementioned publicity was undertaken there have been some amendments to the scheme, particularly the repositioning of the blocks of terraced houses to the west of the mill. The changes do not prejudice any adjacent landowner and as such the amended plans have not been subject to any formal publicity period.

7.3 Councillor Rob Walker – *“Though I am broadly supportive of the scheme I do think that it should come to planning committee due to the heritage features of the site and its environmental importance. There is also obviously the flood plain issue.”*

7.4 Councillor Donna Bellamy – [Ward Councillors] *“have also been contacted by the developer, I will look at the plans etc as they come through, however as a member of strategic committee I will leave comments for when it comes there.”*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

KC Highways Development Management – No objection subject to the minor amendments and clarification as detailed within the appraisal.

Kirklees Lead Local Flood Authority – Advice provided to the LPA on flood risk matters. LPA should confirm with the Environment Agency that the layout amendment affecting blocks i1 to i3 does not materially affect compensatory flood storage within the site. Detailed drainage design required by condition along with a flood evacuation plan.

The Environment Agency – No objection provided that the council also accepts the applicant's revised modelling of the functional floodplain boundary within the site.

Historic England – No objection; the principle of development is supported.

### **8.2 Non-statutory:**

KC Conservation and Design – Support the application.

KC Environmental Services – No objection subject to conditions.

KC Ecology Unit – No objection provided that a biodiversity net gain is achieved.

KC Trees Officer – No objection; details of new/compensatory tree planting required as part of final landscaping scheme.

KC Landscape Section – No objection; details of hard and soft landscaping scheme required by condition.

Public Rights of Way – No objection received.

KC Waste Strategy – Advice provided on waste storage and collection requirements. Updated comments have been sought in response to the amended layout.

KC Education – Contribution of £266,876 is required towards primary school provision.

KC Strategic Housing – 20% of the proposed dwellings should be affordable; this equate to 25 dwellings although the application will also need to be assessed against the criteria for Vacant Building Credit.

Police Architectural Liaison Officer – No objection.

Canal and River Trust – No objection subject to condition.

Yorkshire Water – No objection.

Yorkshire Wildlife Trust – Comments reflect those of Kirklees Ecology Unit.

## 9.0 MAIN ISSUES

- Principle of development
- Heritage considerations
- Green Belt issues
- Phasing of development
- Urban design issues
- Residential amenity
- Landscape issues
- Housing issues
- Highway issues
- Flood risk and drainage issues
- Planning obligations and financial viability
- Ecology and trees
- Representations
- Other matters
- Climate change

## 10.0 APPRAISAL

### Principle of development

- 10.1 The collection of Grade II\* heritage assets at Westwood Mill are on the Historic England at risk register and are at immediate risk of further rapid deterioration and loss of fabric. The Grade II\* listing indicates that the assets are particularly important and are of more than special interest; such buildings account for just 5.8% of listings nationally.
- 10.2 Part of the significance of these assets is derived from:
- a) The early date of the first phases of the mill;
  - b) The way in which the chronological development of the site is legible in the stylistic and construction differences between the different blocks;
  - c) The survival of fabric that illustrates the different functions and development of power sources over the years, e.g. the turbine, engine house, boiler house, drying room etc;
  - d) The survival of associated infrastructure including the mill pond/ dam, sluice gate and mill race;
  - e) The location of the complex which illustrates the importance of water power to the early operation of the mill; and
  - f) The green valley setting which allows an appreciation of the mill complex in its rural location (in contrast to larger urban mills of West Yorkshire towns).
- 10.3 The site also lies in the Linthwaite Conservation Area. The Linthwaite Conservation Area Appraisal highlights the importance of Westwood Mill, with the buildings identified as being of high quality architecturally and important to the development on Linthwaite. The document also identifies Westwood Mill as a collection of buildings at risk and states that buildings such as this one requires action to be taken to ensure that the character of the Conservation Area is preserved and enhanced.
- 10.4 The applicant has submitted the application on the basis of an 'enabling development' argument. The NPPF states: "Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the dis-benefits of departing from those policies."

- 10.5 Much of the site lies within the Green Belt. The proposed development involves the erection of 64 dwellings, the vast majority of which fall within Green Belt land. This would represent inappropriate development unless very special circumstances exist to outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. The very special circumstances the applicant has put forward are the enabling works to bring the listed buildings back into viable use.
- 10.6 A detailed assessment of the heritage and Green Belt issues are provided in the following sections of this appraisal.
- 10.7 It is also relevant to note that planning permission for the redevelopment of the mill site to residential use has previously been approved. This includes under a 2005 application for the conversion of the mill and the erection of new development to provide 108 apartments. The council has previously accepted that this permission was lawfully implemented and is therefore extant.

#### Heritage issues

- 10.8 When determining planning applications that impact on designated heritage assets local planning authorities have a statutory duty under sections 16(2), 66(1) and 72(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 10.9 Paragraph 192 of the NPPF states: "In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness."
- 10.10 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
- 10.11 Paragraph 195 of the NPPF states that: "Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.

- 10.12 Part 1 of Policy LP35 of the Kirklees Local Plan states that development proposals affecting a designated heritage asset should preserve or enhance the significance of the asset and it mirrors paragraph 195 of the NPPF in terms of the assessment for proposals that would result in substantial harm or loss of a designated heritage asset.
- 10.13 The policy justification for LP35 identifies that “much of the distinctiveness of Kirklees’ historic environment is steeped in the development of the textile industry.” Historic England have commented that Westwood Mills is not just one of the most significant textile sites in Kirklees, it is one of the most significant textile sites in the country. The Grade II\* listed status of the complex means that it is the top 8.3% of all listed buildings in England.
- 10.14 Part 3 of Policy LP35 states that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to, *inter alia*, the need to secure a sustainable future for heritage assets at risk and those associated with the local textile industry.
- 10.15 The works necessary to convert the mill involve a substantial amount of demolition and rebuilding work although where possible the more significant parts of the mill are to be retained.
- 10.16 The existing mill building is to be restored and converted into 38 apartments (Blocks A-D). New floors are to be installed in the same locations as the original floors along with new roof structures to replicate the original roof. Additional space would be created within the open truss roof areas for mezzanine/gallery accommodation. The external envelope would remain as per the original building with windows retained in their original positions. The subdivision of the mill buildings would cause some harm to their significance, although this principle has already been established in previous applications and has been mitigated through the layout of the apartments and the retention of significant historic features within communal areas.
- 10.17 The scheme also includes a new build element adjoining the southern side of the mill building which will provide 25 apartments (Blocks E-G). It is proposed to use some surviving walls and construct new walls to form block E, which is largely on the footprint of an existing mill building. Blocks F and G would be new buildings, with block G forming a large five storey building with additional accommodation in the roof. These new structures have been designed to be in keeping with the historic mill.
- 10.18 The walls to the mill pond adjacent to the mill require restoration works as part of the mill conversion, which will then secure the rear terraces of Blocks B-F. The mill pond, which is currently covered with trees, will be reinstated as a water feature with some modifications along its southern flank.
- 10.19 The scheme also includes the erection of six blocks of new build dwellings which would be located towards the east and west of the mill. These new dwellings plus the associated external works such as the access road, parking and landscaping will significantly alter the setting of the mill. This aspect of the development has however been designed to mitigate the impact on the setting

of the heritage assets in terms of their location, scale, architectural form, and materials. It is considered that the contemporary interpretation of the terraced form will sit well alongside the industrial character of the mill buildings.

- 10.20 Having regard to all aspects of the scheme, the proposal is considered to amount to substantial harm to the designated heritage assets as described by the NPPF. However, the conversion of the mill from its current condition and the restoration of the original mill pond are considered to represent a substantial public benefit – bearing in mind its Grade II\* listed status and the fact that it has been identified as being at risk of being lost. The restoration of the mill will also deliver supplementary public benefits by improving the setting of Titanic Mill (Grade II listed) which lies opposite the site as well as enhancing the character of the Linthwaite Conservation Area and the adjacent canal. The substantial public benefit that has been identified is considered to be sufficient to meet the requirements of paragraphs 192, 193 and 195 of the NPPF and Policy LP35 of the Local Plan.
- 10.21 As the developer is promoting this as an ‘enabling development’ project the key public benefits must focus on the retention and reuse of the mill buildings and the creation of a high quality, attractive residential environment, while avoiding unavoidable harm to heritage assets. The approach to bringing the volume and fabric of the mill back into a new use as outlined in the application is supported. However, it is considered that a more detailed scheme demonstrating how the building conservation works will be implemented is necessary. This is to ensure that the applicant’s proposed “design concept” is successfully realised by the delivery of the authentic repair of surviving details/components and their convincing replacement where required.
- 10.22 Conditions are therefore recommended requiring the further approval of the scope of repair and reinstatement works for all building components including: roof structures, elevations, floors and the use of replacement materials. Such information would also provide a clear baseline to enable the implementation to be monitored and evaluated.
- 10.23 The layout of the site has been amended to address flood risk issues. The new development to the west of the mill has moved further away from the listed building and as part of this change the applicant has decided to split two blocks of terraced dwellings into three smaller blocks. As a consequence of this, an area immediately adjacent to the mill (as extended) would form a parcel of soft landscaping, bin store and row of parking spaces. The amendment increases the openness around the mill and restored mill pond, which would enhance their prominence when viewed from the west. As such the change also has a fortuitous benefit on heritage grounds.
- 10.24 Historic England have emphasised the importance of ensuring that the soft landscaping of the site takes account of the industrial character of the site and responds sympathetically to the heritage assets as well as mitigating the impact of the new development where possible. The detailed landscaping scheme for the site would be agreed through a planning condition and will need to reflect this advice.
- 10.25 In order to provide adequate parking provision in suitable proximity to the dwellings, the amount of parking spaces has been increased around the ‘green’ to the east of the mill. It is acknowledged that this results in this area becoming more ‘cluttered’ and detracts from the overall design. However, on

balance it is considered that appropriate parking needs to be provided so as to discourage informal parking occurring in other areas, which would give rise to other issues as well as impacting on the visual amenity of the development.

- 10.26 The principle of development is supported by both the Council's Conservation and Design team and Historic England and in summary officers consider that securing the future conservation of this important listed building outweighs the harm and the loss of significance to the heritage asset. The application is deemed to be in accordance with Policy LP35 of the Kirklees Local Plan and guidance in the NPPF.

#### Green Belt issues

- 10.27 The majority of the site lies within the Green Belt, as identified within the Kirklees Local Plan. The existing mill buildings and their immediate curtilage, which extends a short distance to the east and as far as the river to the south, are not included within the Green Belt and comprise unallocated land.
- 10.28 In order to fund the cost of the mill conversion and enable the development to create a profitable outcome for the developer, the proposal includes the erection of 64 dwellings to the east and west of the mill. The vast majority of these new build dwellings lie within the Green Belt; it is only a proportion of block H which falls within the unallocated part of the site. The proposed extension to the mill is also within the unallocated land.
- 10.29 Paragraph 143 of the NPPF states that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 144 goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 10.30 The NPPF sets out a number of exceptions within paragraph 145 whereby the construction of buildings within the Green Belt could be acceptable. The exceptions include limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt over and above the existing development.
- 10.31 Policy LP59 of the Kirklees Local Plan states that the redevelopment of brownfield sites will normally be acceptable where the existing footprint is not exceeded, and any new building does not materially exceed the height of the existing built development or result in any detrimental cumulative impact on the openness of the Green Belt.
- 10.32 While the existing mill buildings and their immediate curtilage constitute previously developed (brownfield) land, this part of the application site has overtly been excluded from the Green Belt boundary. Very little of the Green Belt land within the application site can be considered as brownfield and all previous development within this part of the site is/has been low level. For example, the Green Belt land includes the settling pond, a section of the existing access off Low Westwood Lane and the mill pond – which has reverted to an area of self-seeded vegetation. Aerial photographs and historic maps indicate that there has been some additional limited development within

the Green Belt to the east of the mill where there is evidence of some small structures and hard surfacing. Nevertheless, the part of the site that is within the Green Belt is essentially undeveloped land. As such, the proposed new build development, apart from roughly the western half of block H and the extension to the mill, is inappropriate development.

- 10.33 The proposal represents a significant amount of new development within the Green Belt. The residential development extends for a sizable distance to both the east and west of the mill, resulting in a high degree of encroachment. The built form of the new buildings is also substantial, with six blocks of terraced houses that are all three and four storeys in height. In addition to this the proposal would introduce the associated residential infrastructure such as estate roads, parking spaces and communal bin storage. The proposal would therefore have a very considerable impact on the openness of the Green Belt and would conflict with the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open.
- 10.34 A financial viability assessment has been submitted with the application and this has been independently appraised on behalf of the Council. The viability assessment concludes that without the 64 new build homes the mill conversion and extension would make a loss of some £5.5million. It is clear from the viability assessment that even with the new build dwellings the overall viability of the scheme is marginal, and officers therefore accept that the proposed quantum of development is the minimum that is necessary to enable the listed building to be restored.
- 10.35 In this context it is necessary to consider whether the benefits of the proposed development, specifically the public benefit that would arise from the restoration of the Grade II\* listed mill, amounts to 'very special circumstances' to outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.
- 10.36 The heritage benefit of restoring the mill and regenerating this historic industrial site has been discussed earlier within this appraisal. Considerable weight is attached to this benefit and officers are of the opinion that this is sufficient to constitute very special circumstances that would outweigh the harm caused.
- 10.37 The layout of the site has been amended during the course of the application to address flood risk issues (as discussed later in this appraisal). The effect of this change has been to push development slightly further towards the west. As such the extent of the incursion of new built form into the Green Belt has been increased. This additional impact on the openness of the Green Belt must be weighed against the benefit of mitigating the risk of flooding to the development. Officers have concluded that, within the context of the overall scheme, the benefit of mitigating flood risk outweighs the impact of the relatively modest additional encroachment.

Phasing of the development:

- 10.38 The enabling argument put forward by the applicant is accepted by officers as justification for the new development within the Green Belt. Given the weight of emphasis that has been placed on the protection of the designated heritage asset it is therefore vital that the listed mill building is restored at the earliest possible opportunity.

- 10.39 The applicant has advised that the works to the existing mill would form part of the first phase of development. Initially the mill would be scaffolded and made safe and within one year of work commencing the building would be fully weathertight. Work will also begin on the restoration of the mill pond at the same time. All these works would be taking place alongside the infrastructure works to form the new access road and install services.
- 10.40 Within this first phase, it is also proposed that the dwellings to the west of the mill would be constructed (blocks i1, i2 and i3). The applicant expects that these houses would be on the market within one year and has indicated that the sale of these properties is necessary to continue to fund the restoration of the mill, which would take a further 12 months (approximately) before the conversion has reached a stage where the apartments can be marketed.
- 10.41 The second phase of the development would begin with block K, followed by blocks H and J.
- 10.42 Given the condition of the listed mill, the scope of the restoration works is significant and as such will be a costly and time-consuming aspect of the development. It is therefore considered reasonable to enable the developer to construct and sell a proportion of the new build dwellings as part of the first phase. The developer is proposing to construct the three blocks of dwellings to the west of the mill as part of phase one, which are effectively located to the 'back end' of the site and can be constructed without impacting on the works to the mill. These dwellings also back directly onto the mill pond which is to be restored as part of the first phase. Officers consider that this is an acceptable proposition although it is considered that none of the dwellings within phase 2 should be constructed beyond floor slab level until the mill building has reached its 'first fix'.
- 10.43 Based on the above it is considered that the following triggers for development are appropriate for the protection of the heritage asset and the Green Belt.
- Measures to ensure that the listed mill building is secured and made weather and water-tight to be completed within 12 months of development commencing. This would be evidenced by the developer through a schedule of works and agreed in writing by the Local Planning Authority.
  - No construction beyond floor slab level of any dwelling forming part of blocks K, H or J until the listed mill building has been satisfactorily completed to 'first fix' stage. The developer would be required to submit evidence of the completed works to the Local Planning Authority.
  - Mill pond to be restored before any dwelling within blocks K, H or J is occupied.
- 10.44 It is considered necessary that the phasing of the development is secured via Section 106 agreement.

#### Urban Design issues

- 10.45 The proposed terraced houses are predominantly four storeys in height, although a number of these are split level (three and four storeys). Only block H is entirely three storeys. There is a consistent design theme to the

dwellings with pitched roofs, gables and projecting elements to the front and rear that enable terraces to be provided at the uppermost level (except for block H). All the dwellings have been provided with integral garages which is intended to help reduce the visibility of parking.

- 10.46 Parts of blocks J and K would face directly onto Low Westwood Lane. These dwellings are four storeys in height and have entrances and main habitable windows fronting onto the road which provides an active interface with the streetscene. These properties also have amenity space to the roadside elevation and their parking spaces are located to the opposite side of the house which means there would be a softer, more attractive edge to the public highway.
- 10.47 The layout includes a number of positive elements that help to deliver a high quality of development. In particular, the restoration of the original mill pond would provide a very attractive aquatic feature that enhances the setting of the existing and proposed buildings as well as the adjacent canal. The scheme also retains the existing settling pond adjacent to Low Westwood Lane.
- 10.48 In addition to this, the layout incorporates areas of open space – including a landscape buffer to the river Colne and a central ‘green’ to the east of the listed building which provides a pleasant, open area in this part of the site. Existing and new tree planting is incorporated throughout the layout.
- 10.49 The existing mill sits directly adjacent to the canal towpath and so the restoration of the building will enhance the canal’s aspect. Furthermore, the proposed extension to the listed building is considered to be a sympathetic addition and of a scale and design that is in keeping with this historic site as well as the wider area.
- 10.50 All of the restoration works to the listed mill would be carried out using natural stone and slate to match the original building. Where the mill is to be extended the first part of the extension (block E) would also be constructed of natural stone. The remainder of the extension (blocks F and G) would be faced in artificial stone to match the listed building. The extension would have a natural slate roof.
- 10.51 The new build dwellings to the east of the mill (blocks H, J and K) would be faced in artificial stone and stone coloured render. The new build dwellings to the west of the mill (blocks i.1, i.2 and i.3) would be faced in brick - in a colour to match natural stone - with natural stone gable ends. The roofs would be natural slate.
- 10.52 No objections have been raised to the proposed materials by the Council’s Conservation and Design team and Historic England. Officers consider the materials to be acceptable, subject to a condition requiring the approval of samples.
- 10.53 A condition requiring a detailed scheme for the proposed hard and soft landscaping of the site is also recommended. This will need to include sensitive treatment of the boundaries to Low Westwood Lane and the canal.

10.54 In summary, the development is considered to represent good quality design and therefore complies with Policies LP24 and LP35 of the Kirklees Local Plan and guidance in the NPPF.

#### Residential Amenity

10.55 The site is immediately surrounded by waterways (canal and river), a road and undeveloped land. The proposed new dwellings are well separated from the nearest existing residential properties and as such the proposal would not prejudice the amenity of any existing occupiers.

10.56 The form and layout of the proposed new dwellings are such that the new dwellings are generally very well separated from one another. There is a relatively close relationship between the side of blocks E-G and the western end of block H although it is not considered that this results in any unacceptable impact on the amenity of future occupiers.

10.57 The size of the proposed residential units is a material planning consideration. Local Plan policy LP24 states that proposals should promote good design by ensuring they provide a high standard of amenity for future and neighbouring occupiers, and the provision of residential units of an adequate size can help to meet this objective. The provision of adequate living space is also relevant to some of the council's other key objectives, including improved health and wellbeing, addressing inequality, and the creation of sustainable communities. Recent epidemic-related lockdowns and increased working from home have further demonstrated the need for adequate space at home.

10.58 Although the Government's Nationally Described Space Standards (March 2015, updated 2016) (NDSS) are not adopted planning policy in Kirklees, they provide useful guidance which applicants are encouraged to meet and exceed, as set out in the council's draft Housebuilder Design Guide SPD. NDSS is the Government's clearest statement on what constitutes adequately-sized units, and its use as a standard is becoming more widespread – for example, as of April 2021, all permitted development residential conversions will be required to be NDSS-compliant.

10.59 The applicant has provided a breakdown of the floor areas and compared these with the NDSS.

10.60 The 64 new build dwellings all exceed the NDSS, and generally exceed the standards by a large degree.

10.61 The applicant's assessment shows that 47 out of the 63 apartments all exceed the NDSS to varying extents. However, officers note that a further 9 apartments also comply with the NDSS when they are compared against the lowest occupancy level for the relevant dwelling types (the applicant's assessment generally adopts the higher level of occupiers which consequently means that the minimum space requirement is higher).

10.62 Of the remaining 7 apartments where the applicant has identified a shortfall against the NDSS, three of them fall short on the amount of built-in storage space only and in these instances the overall floor area exceeds the NDSS, which provides more than adequate compensation.

- 10.63 All of this means that there are only 4 out of the 127 units that demonstrably fall short of the minimum requirements within the NDSS; this equates to just over 3% of the total. These units are all within the mill conversion (blocks A-G) where there are challenges with delivering a layout that ensures the sensitive conversion of the historic elements. Taking this into account, along with the widespread adherence to the NDSS across the scheme as a whole, it is considered that the development would deliver an acceptably high standard of living space for future occupiers.
- 10.64 The amount of external amenity space for each of the 64 new build dwellings is generally quite limited however all but one of the new build dwellings incorporate balconies and terraces which provide usable outdoor space. The development also includes numerous areas of open space which will help to meet the needs of residents, including the occupiers of the apartments.
- 10.65 Some of the proposed residential properties would be located close to existing commercial uses to the south of the site. There is also a railway line around 130m to the north of the site. Noise from both of these sources have the potential to have an adverse impact on the future occupiers of the site. A condition requiring an assessment of the potential impact from noise together with details of any necessary noise mitigation measures is considered necessary.

#### Landscape issues

- 10.66 The site takes in part of the boundary between the village of Linthwaite and the Green Belt. The impact on the Green Belt has already been considered within this appraisal and in this regard the principle of the development has been accepted by officers. The proposal would nevertheless extend the built-up part of Linthwaite on the northern side of the River Colne. The site is however located broadly in line with the Titanic Mill development, which is also on the northern side of the river but forms part of Linthwaite village (not Green Belt). The two developments would generally be viewed within the same context and as such the scale of the intrusion into the landscape beyond the river would appear somewhat less pronounced. The canal then serves to provide a visual break between the new built form and the Green Belt land further to the north.
- 10.67 The site includes areas of open land including a landscape buffer alongside the river and a large area of open space in the western part of the site which help to create an attractive landscape setting. The restoration of the mill pond and the improvements to the settling pond also help in this regard and retain some of the historic features and character of the area.
- 10.68 Overall it is considered that the proposed scheme would successfully assimilate itself into the landscape. The application therefore complies with Policies LP24 and LP32 of the Kirklees Local Plan.

#### Housing issues

- 10.69 The proposal would result in a 'windfall' of 127 new residential units which would contribute towards the Council's housing delivery targets as set out in the Local Plan.

## Highway issues

- 10.70 In general terms the application is considered acceptable from a highway safety perspective, although there are some specific matters in relation to the detailed design of the site layout which the applicant needs to address. This is largely necessary to ensure that the road layout would meet adoptable standards.
- 10.71 In terms of capacity of the existing highway, Highways Development Management are satisfied that the traffic generated by the development can be accommodated on the local road network without giving rise to any unacceptable impacts. Information submitted in support of the application shows that all junctions would continue to work within capacity using 2024 base traffic figures and the robust figure of 0.7 peak hourly movements per dwelling. The TRICs data produces less onerous figures still.
- 10.72 Some of the public representations received have referred to queueing vehicles at the signalised junction of Low Westwood Lane and Manchester Road. Although this junction is anticipated to work within its capacity following the completion of the development, this proposal is naturally going to put additional traffic on this section of the network given, especially because it will be the principal route of access for the development. As such, the Council's Urban Traffic Control department have requested a contribution of £15,000 to upgrade the signals to the MOVA system, which will improve the junction efficiency. This contribution is to be secured as part of the Section 106 Agreement.
- 10.73 A new vehicular access is to be formed roughly along the middle of the site frontage; this is off-set from the entrance to Titanic Mills.
- 10.74 An existing access off Low Westwood Lane, which abuts the southern side of the settling pond, is to be retained. This would act as a pedestrian only access up until the point where it meets the main access road within the site. This existing access would be enclosed by bollards, which could be removed in the event that emergency access was required.
- 10.75 The site layout has been amended to include a new pedestrian footway along the site frontage which will facilitate pedestrian access to and from the site. The applicant has however been asked to confirm their intentions regarding the widening of the existing footway around the settling pond, as it may only be possible to do so by extending into the existing carriageway.
- 10.76 It is considered that the street lighting along the site frontage should be augmented and to this end a financial contribution towards an additional street lamp is sought (£2,000).
- 10.77 Within the site, the road layout would be a mixture of standard road surface with footways and a 'shared surface' with a delineated hard margin to one or both sides. The initial section of highway from the site entrance includes 2m wide pedestrian footways; Highways Development Management have requested that the footway to the northern side of the access road is increased in length so that it extends for a short distance beyond the mill. The shared surface is within the western part of the site and around the 'green' to the east of the mill. Subject to the aforementioned amendment, the proposals are considered to be acceptable in this regard.

- 10.78 The overall level of parking provision is deemed to be acceptable. It is however considered that the garages within the redesigned terraces to the west of the mill (blocks i1, i2 and i3) are too shallow to comfortably accommodate two large family cars. As the proposed dwellings are to be three-bedroomed, two off-street parking spaces are required. These are formed by one garage space and one driveway space; however, an increase in garage depth of around 700mm would create an extra space, thus reducing demand on visitor parking in this section of the site. The applicant has been asked to review whether such an amendment can be accommodated.
- 10.79 In terms of the detailed design of the proposed layout, the applicant has also been asked to review the width of the internal access road, sightlines and swept paths to address specific comments from the council's Section 38 team (road adoption). The applicant has also been asked to comment on the existing underground structures (mill race watercourses) over which adoptable roads are proposed. An update will be provided to members once the applicant has responded.
- 10.12 An updated response from the council's Waste Strategy Officer has been sought in relation to the waste storage and collection arrangements because the layout of the site has been amended. An update will also be provided on this matter.
- 10.80 Conditions relating to detailed highway design, including the proposed footway to the site frontage and highway retaining structures, are considered necessary.

#### Flood Risk and drainage issues

##### *Flood risk*

- 10.81 The current Environment Agency Flood Risk Map shows the majority of the site to be within Flood Zone 3 with a proportion of the site adjacent to the canal falling within Flood Zone 2. This means that the site is at high and medium risk of flooding respectively.
- 10.82 Areas within the site are also designated as functional floodplain (Flood Zone 3b) within the Kirklees Calder Catchment Strategic Flood Risk Assessment (Kirklees SFRA). The functional floodplain is defined as a 1 in 25 year event.
- 10.83 The application is for the erection of dwellings which is classified as a 'more vulnerable' land use. In line with the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG), 'more vulnerable' developments (as defined in the Flood Risk and Coastal Change section of the PPG) are not appropriate in flood zone 3b.
- 10.84 The applicant has undertaken their own site-specific modelling of flood risk. The modelling has been based on land levels being altered within the functional floodplain and these works form part of the proposed scheme. The applicant's modelling has been reviewed by the Environment Agency who consider that it demonstrates a better representation of Flood Zones 2 and 3 and is comparable with the most up-to-date modelling that the Environment Agency undertook in 2020. The Environment Agency also consider that the applicant's modelling of the functional floodplain (Flood Zone 3b) constitutes a more accurate representation of this boundary as it is derived by better modelling than that used for the Kirklees SFRA.

- 10.85 The modelling carried out by the applicant demonstrates that none of the proposed dwellings and the access road would be located within the functional flood plain (Flood Zone 3b). The Environment Agency raise no objection to the principle of development provided that the council also accepts the new boundary of Flood Zone 3b as shown on the applicant's model.
- 10.86 Part (d) of policy LP27 of the Local Plan (Flood risk) states that "development will not be permitted on any part of the site identified through a site-specific Flood Risk Assessment as performing a functional floodplain role". The scheme involves works to alter land levels within the existing functional floodplain, as identified within the Kirklees SFRA. The proposed change to the boundary of the functional floodplain is only acceptable on the basis of these works being carried out. The works to alter land levels, which include lowering the river bank and creating compensatory flood storage, constitute development because they are an engineering operation. As such, this aspect of the scheme conflicts directly with part (d) of Policy LP27.
- 10.87 National Planning Practice Guidance sets out the appropriate types of uses (by Vulnerability Classification) in each Flood Zone following the application of a Sequential Test. For Flood Zone 3b it states that Water Compatible uses may be appropriate and essential infrastructure may be appropriate (but only following an Exception Test). NPPG does not list land raising/engineering works as an appropriate use under either of those vulnerability classes. The Environment Agency have however suggested that, where 'engineering operations' are creating compensatory flood storage, such works could be considered as appropriate development in functional floodplain on the basis that they are facilitating works to create "flood control infrastructure", which is appropriate for construction in Flood Zone 3b. The Environment Agency has already granted a Flood Risk Activity Permit for these works.
- 10.88 Officers have considered the issue of development within the existing functional floodplain and are of the opinion that the works can be accepted on this particular site. The works are providing compensatory flood storage and are necessary to help facilitate the enabling works that are necessary to deliver the restoration of an 'at risk' Grade II\* listed building. Similar works are therefore unlikely to be acceptable on other sites within the district.
- 10.89 Policy LP27 of the Local Plan requires a sequential approach to new development. This means that development should first be directed to areas at the lowest probability of flooding, following a sequential risk-based approach.
- 10.90 Notwithstanding the applicant's revised modelling, large areas of the site remain in flood zones 2 and 3a and as such the application is required to be subject to a sequential test, with the starting point for the search area being the whole of the district. The existing mill building is exempt from the sequential test because it is a change of use but the sequential test applies to the remainder of the development.
- 10.91 In this instance officers have accepted that it is appropriate to adopt a site specific sequential approach, i.e. alternative sites that are at lower risk of flooding need not be considered. This is on the basis of the regeneration benefits, namely the need for enabling development to support the conversion of the mill, which is considered to outweigh the risk of flooding.

- 10.92 Having accepted the principle of development in this location, it is then necessary to apply a sequential approach to new development on the site. To this end, an amendment to the layout has been secured which has removed some of the new dwellings from an area of the site which is at the greatest risk of flooding in the most severe events. The terraced blocks to the west of the mill have been pushed further away from the mill in order to avoid this area and have been replaced with an area of soft landscaping plus parking spaces and a bin store.
- 10.93 The applicant has provided a Flood Risk Assessment which shows the proposed layout in relation to a series of different flooding scenarios and includes the various depths of the anticipated flooding that would occur. From the information provided it is clear that there is a significant degree of flood risk posed to some of the new development. The risk of flooding is most acute in the 1 in 100 year events when 50% and 30% allowances are made for climate change.
- 10.94 The 1 in 100 event with a 30% allowance for climate is generally accepted as a standard scenario. This shows that flooding would affect blocks i1, i2 and i3 as well as the gardens of some of the properties within block H and a small area adjacent to block G. The depth of the modelled flooding scenario is shown as being relatively low level (less than 200mm) although some localised areas would be above this. It also shows that part of the access road is shown to flood to a depth of up to 600mm; at this depth it would certainly impede emergency vehicle access, if not prevent it.
- 10.95 It has already been established that the amount of new development proposed is the minimum that is necessary in order to bring the scheme forward. As such, there is not any scope to entirely remove development from the identified flood risk areas. Officers have therefore accepted that a sequential approach to the site layout cannot be improved any further. It is therefore necessary to consider whether suitable flood mitigation measures can be provided to make the development acceptable.
- 10.96 The scheme incorporates a number of flood mitigation measures. These include minimum finished floor levels within the new dwellings, no habitable accommodation at ground floor level within the blocks to the west of the mill (i1, i2 and i3), a dry access route from blocks i1, i2 and i3 in the event of a flood (raised walkway alongside the mill pond connecting to the canal towpath), as well as compensatory on-site flood storage. It is considered that the proposed measures are a suitable response to flood risk and will help to mitigate the impact of flooding if/when it occurs.
- 10.97 The risk of flooding to a number of the properties must be weighed within the planning balance and this appraisal sets out a number of benefits that would arise as a result of the proposed development. Officers have concluded that the degree of risk posed by flooding, taking account of the proposed flood mitigation measures, is acceptable when weighed alongside all other material planning considerations. The risk posed by flooding is also a matter which any prospective purchasers of the affected properties will also need to carefully consider on an individual basis.

- 10.98 Conditions are recommended to ensure that the proposed flood mitigation measures are provided as part of the development. A condition regarding a flood evacuation plan is also recommended.
- 10.99 The applicant has recently updated their Flood Risk Assessment following the aforementioned amendment to the site layout. It is unclear whether this change would materially affect compensatory flood storage and as such it is considered prudent to obtain confirmation from the Environment Agency that the revised layout does not alter their original comments. The officer recommendation reflects this.

#### *Drainage matters*

- 10.100 The applicant has provided a broad drainage strategy for the development. Surface water would ultimately discharge to the River Colne via a series of swales, the restored mill pond and existing settling pond. The strategy represents a sustainable approach to surface water disposal and therefore is considered to be acceptable in principle. A detailed drainage scheme is however required and this can be conditioned. A separate foul drainage system is proposed and this will connect to the existing sewer network.
- 10.101 There is a public sewer crossing the south western section of the site and Yorkshire Water have advised that certain minimum stand-off distances are required between new buildings and the sewer infrastructure within the site. A minor amendment was made to the layout to address these requirements and Yorkshire Water subsequently advised that the scheme provided acceptable stand-off distances. Since these comments were made by Yorkshire Water, the layout of the new terraced dwellings to the west of the mill has been amended. The applicant has been requested to provide a plan demonstrating that the revised layout accords with Yorkshire Water's requirements. An update will be provided to members on this matter.

#### Representations

##### 10.102 *General principle*

- *The quantum of new development stretches the enabling argument to its limit.*

**Officer response:** The requirement for the development in the context of the applicant's 'enabling development' argument has been considered within this appraisal.

#### *Design*

- *Concerns raised with the quality of design of the new build elements*
- *Dominance of vehicular parking detracts from the overall scheme, particularly the parking around the central green and the garage doors to the properties.*
- *The external amenities around the water areas are too heavily influenced by roads and parking.*
- *New dwellings are too close to the canal and will have a detrimental impact on the visual amenity of the canal.*

**Officer response:** The design of the scheme has been subject to formal pre-application advice and has been influenced by advice from Historic England. It is acknowledged that there are some elements of the scheme that are less than ideal, for example there is a predominance of parking around the 'green' to the east of the mill as well as other significant areas of parking. However, it is considered that the visual impact of parking provision has been mitigated as far as a reasonably practical and overall officers consider the design to be acceptable.

#### *Heritage*

- *Development will negatively affect the Conservation Area*
- *The archaeology of the site needs to be investigated*
- *The supporting heritage information submitted by the applicant is insufficient*

**Officer response:** A detailed assessment of the heritage issues has been provided within this appraisal and concludes that there would be a substantial public benefit to the proposed redevelopment and this outweighs the harm to the significance of the designated heritage assets. Furthermore, the principle of development is supported by Historic England.

An archaeological recording of the buildings on the site has previously been undertaken in connection with earlier planning applications; a copy of the most recent report has been submitted with the current application. It is unlikely that further archaeological investigation and recording would add anything new to the historic record. A condition requiring up-to-date archaeological investigation could nevertheless be imposed if deemed necessary.

#### *Highway issues*

- *Concerns with the impact of the additional traffic that would be generated on the local highway network. Existing traffic problems within the vicinity of the site would be exacerbated. The local road network is not suitable to accommodate heavy traffic.*
- *Concerns that insufficient traffic modelling has been undertaken by the applicant*
- *Concerns that the development will add to existing parking problems in the locality. Already parking issues associated with Titanic Mill and people accessing the canal.*

**Officer response:** The issue of traffic generation and parking provision has been directly addressed within this appraisal.

#### *Flood risk*

- *Residential development inappropriate on a flood plain.*
- *Concerns with the impact on the hydrological flow characteristics within the river Colne flood plain.*
- *Concerns with the impact of nearby chemical factories being flooded on the proposed and existing residential development.*
- *Has the flood risk assessment taken into account climate change?*

**Officer response:** A detailed assessment of flood risk has been provided within this appraisal.

## *Ecology*

- *Detrimental impact on the site's wildlife value.*
- *Ecological enhancement is concentrated towards the undeveloped part of the site; the developed part of the site offers little in the way of ecological benefit.*

**Officer response:** Ecological issues have been considered within this appraisal.

## *Other matters*

- *Impact on local infrastructure such as schools and medical facilities. Local infrastructure is already overstretched.*

**Officer response:** Education provision is a material consideration. The development triggers a contribution towards primary school places however for the reasons set out within this report the full contribution is unable to be met.

With regard to medical facilities, the development is not of a scale that would warrant new build provision. New investment in medical facilities is a matter for those providers, which will be partly based on local population size.

- *Impact on trees.*

**Officer response:** The impact on trees has been discussed separately within this appraisal.

- *There is not a need for additional dwellings in this location.*

**Officer response:** The 'need' for this development is not material planning consideration and is a commercial decision for the developer. The Council is nevertheless required to deliver new housing under the Local Plan.

- *The canal towpath is an important green corridor that needs protecting.*

**Officer response:** Agree. No objections have been received from the Canal and River Trust subject to a condition.

- *Potential contamination needs to be adequately addressed.*

**Officer response:** Conditions are recommended to address potential contamination.

- *Will any parking spaces be made available for visitors to the canal?*

**Officer response:** This is not proposed as part of the scheme and officers do not consider that there is a particular need or justification to seek such provision.

- *Will a room within the mill building be used to show the industrial history of the site and local area?*

**Officer response:** Within block C the turbine hall and a central core have purposefully been retained as larger, communal spaces to aid the legibility of the historic building. However, the mill will be in private ownership with multiple occupants and it is not considered that allowing public access into the building is appropriate as this will conflict with Secured by Design advice. The applicant's planning agent has however suggested that parts of the building could be opened up on occasions to enable public access, such as holding open 'heritage days'.

- *The history of the mills should be presented within interpretation boards to allow people to appreciate the textile heritage of the area.*

**Officer response:** It is considered that there is some merit in this suggestion. Officers consider that information could be displayed in some form which would aid understanding of the significance of the heritage asset and the applicant's planning agent has indicated that there may be scope for something along these lines around the entrance to the mill building. A condition can be imposed requiring details of such a feature/s.

- *A dedicated right of way through the site from Low Westwood Lane to the canal towpath is welcomed and should be designed to minimise potential conflict with vehicles.*

**Officer response:** The proposed pedestrian access through the site is considered suitable.

#### Planning obligations and financial viability

##### *Affordable housing:*

10.103 Policy LP11 of the Kirklees Local Plan requires 20% of the dwellings on the site to be affordable. Based on a total of 127 dwellings, this equates to 25 affordable units on this development.

10.104 However, it is considered that this figure would be reduced by virtue of the vacant building credit. National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floor-space of relevant vacant buildings when calculating any affordable housing contribution which will be sought. Affordable housing contributions are required for any increase in floor-space. Based on information provided by the applicant, a discount of 25% could be applied to the affordable housing requirement of 25 units, equating to a revised requirement of 19 affordable units.

##### *Education:*

10.105 Policy LP49 of the Kirklees Local Plan provides for educational needs arising from new development.

10.106 The Council's School Organisation section have advised that a financial contribution of £266,876 would be necessary towards primary school provision.

*Open space:*

10.107 Policy LP63 of the Kirklees Local Plan relates to the provision of open space on new developments.

10.108 The scheme almost entirely meets the requirements of this policy through the provision of on-site open space. Areas of landscaped and semi-natural open space are incorporated within the layout and there is an area of land at the western edge of the new residential development that would provide formal and informal opportunities for play. The play area is accessible from within the site as well as the adjacent canal towpath.

10.109 In addition to this, the proposal includes a separate parcel of undeveloped land just to the west of the application site. This land is within the applicant's ownership and comprises an area of protected woodland. It is proposed that new tree planting would take place here and the area retained as a managed woodland.

10.110 Full details of the proposed open space, including the dedicated play area and the separate parcel of woodland within the applicant's ownership, would be required through a condition. An inspection fee for the open space is also required (£1,000) as well as details of the arrangements for the future maintenance and management of the areas of open space and any other land that does not fall within private ownership; this would need to be secured through a Section 106 Agreement.

10.111 Given the scale of the proposals there is a requirement for some allotment provision, which the applicant's open space strategy does not provide. However, officers consider that there is scope for this to be met within the application site through the provision of a community growing area. In the absence of such on-site provision an off-site contribution of £7,000 towards existing allotment facilities within the vicinity of the site would be necessary.

*Off-site highway works:*

10.112 Highways Development Management have recommended that a contribution of £15,000 is secured to upgrade the signalised junction of Low Westwood Lane and Manchester Road.

10.113 It has also been recommended that an additional street light is installed along the site frontage in the interests of highway safety. This would cost approximately £2,000.

*Sustainable travel:*

10.114 West Yorkshire Combined Authority has requested a contribution of £133,230 to encourage the use of sustainable transport as a realistic alternative to the car. This is likely to include the provision of travel cards for residents and the upgrading of the nearest bus stop to provide real time information. An additional £15,000 contribution towards Travel Plan monitoring would also be required.

*Financial Viability:*

- 10.115 The applicant has submitted a financial viability appraisal which has been independently assessed on behalf of the Council. There is a difference of opinion between the independent assessor and the applicant in terms of the development costs and consequently the profitability of the scheme and the level of planning obligations that the development can support. Nevertheless, it is generally accepted that the development is unable to deliver a policy compliant Section 106 package because of the cost associated with the redevelopment of the listed building.
- 10.116 Planning Practice Guidance indicates that a profit level of 15-20% of gross development value is generally considered to be a suitable return to developers. There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. In determining the appropriate level for an individual development, regard will be had to the individual characteristics of that scheme.
- 10.117 Based on the independent assessment, the scheme would generate a profit of 14.5% on Gross Development Value (GDV) when affordable housing is omitted but education and sustainable travel contributions are included. This profit level falls slightly short of advice in Planning Practice Guidance in terms of a minimum profit level.
- 10.118 If all Section 106 obligations are removed then the independent assessment shows that the profit level would be increased to 16.69% on GDV, which is towards the lower end of the spectrum of a suitable return for the developer. Given the complexities associated with developing this site as well as other issues which may affect sales values such as flood risk, the scheme could not reasonably be considered as low risk. There is also a degree of uncertainty around sales values for this type of development because there are not any directly comparable schemes within this area. As such officers consider that this profit level would represent a suitable return.
- 10.119 The applicant does not agree with the conclusions of the independent assessment on the profitability of the scheme. The applicant considers that the profit level would be much less than has been suggested because of the cost of converting the listed mill, albeit the applicant's estimated profit of less than 9% of GDV is something that he is willing to accept on this particular site.
- 10.120 The reason the applicant disputes the assessor's conclusions is that the independent assessment has allowed for a conversion cost that is roughly the same cost as that for the construction of the new build dwellings. The applicant strongly refutes this assumption and considers that the mill conversion costs would be significantly higher (by at least 45%). This results in a substantial difference between the projected development costs and as such has an impact on the developer profit.
- 10.121 The Conservation and Design team have considered the respective mill conversion costs. It is known that the mill is in very poor condition and will require significant repair, stabilisation and reconstruction works, as well as the adaptation to create the residential units. A breakdown of the scope of works

has been provided which gives an indication of the estimated cost for the repair, reconstruction and residential fit-out. Officers are of the opinion that the cost of the redevelopment of the mill is highly likely to be significantly greater than the new build cost and as such officers consider that the applicant's appraisal figures are more realistic in this regard. This means that the viability of the scheme is likely to be more marginal than the independent assessment suggests.

10.122 The applicant is confident that his conversion costs are accurate and to this end has agreed to include an 'overage' clause on this element of the scheme as part of any permission. This would relate to the 38 apartments that would be formed within the existing mill (but not the 25 apartments within the extension to the mill). Such a clause would mean that should the conversion costs fall below the figure assumed by the applicant then the viability of the scheme would be reappraised, and a proportion of any additional developer profit could then be secured towards planning gain. Having said that, officers have accepted that a profit level of slightly less than 17% of GDV (as has been suggested is achievable within the independent appraisal) represents a suitable return on this site given the level of risk. As such, there would have to be a very considerable 'saving' before the profit level was increased to such an extent so that it justified further planning gain.

10.123 The applicant's viability appraisal has allowed for a contribution of £73,000 towards a Section 106 'pot'. Officers have negotiated that this is increased to £90,000; this is to include an additional £17,000 for the off-site highway works (junction improvements and additional street light). The remaining £73,000 could be used towards education provision, sustainable travel measures or off-site affordable housing provision in this housing market area. Officers are of the opinion that the contribution should be used to meet a proportion of the substantial education requirement that is generated by the development.

*Conclusion on planning obligations and financial viability:*

10.124 There have been extensive negotiations between officers, the applicant and the independent assessor regarding the viability of the development.

10.125 It is evident that, to a greater or lesser extent, the viability of the scheme is marginal and the principal reason for this is because of the cost of redeveloping the listed mill.

10.126 Officers have concluded that the applicant's estimated cost of the mill conversion works is reasonable and have therefore accepted this for the purposes of the financial appraisal. An overage clause on the mill conversion can however be included in the event that the conversion costs end up being significantly less than the applicant anticipates and in turn yields a substantial uplift in the level of developer profit.

10.127 It is accepted that the scheme is unable to deliver affordable housing, the full education contribution and a contribution to promote sustainable travel. Some planning gain can nevertheless be secured (£90,000) and officers recommend that this is used towards the aforementioned highway works and education provision.

10.128 The proposal is able to fully meet open space requirements, subject to the inclusion of a community growing area to address the requirement for allotment provision. This can be secured as part of the detailed landscaping scheme.

### Ecology and trees

10.129 Policy LP30 of the Kirklees Local Plan states that the council will seek to protect and enhance the biodiversity of Kirklees. Development proposals are required to: result in no significant loss or harm to biodiversity; minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist; safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network and; incorporate biodiversity enhancement measures to reflect the priority habitats and species identified.

10.130 The settling pond on the site is designated as a Local Wildlife Site (LWS) in the Local Plan and the adjacent canal corridor also forms a LWS.

10.131 The application is supported by a range of ecological information, including a Preliminary Ecological Appraisal, relevant species survey information (including bat surveys), an Ecological Impact Assessment and a Biodiversity Management Plan.

10.132 The Ecology Unit has assessed all the submitted information and there are no objections to the principle of the proposed development. The scheme is however required to deliver a net biodiversity gain and the applicant's biodiversity net gain assessment is currently showing a slight biodiversity loss on the site (-1.08%), although this does not take account of the detailed landscaping proposals for the site which would have a positive impact on the calculation.

10.133 The council seeks a net biodiversity gain of 10% on development sites such as this. The applicant is required to demonstrate that such a gain will be achieved; this can either be through the detailed landscaping scheme and/or off-site enhancement – either on land owned by the developer, a habitat bank or providing a commuted sum to the council.

10.134 Officers are satisfied that this detail can be agreed prior to any permission being issued or alternatively can be secured through the Section 106 agreement or via a planning condition. This is necessary so that the application accords with Policy LP30.

10.135 The Ecology Unit has also sought assurances regarding the boundary between the settling pond (LWS) and the adjacent residential properties that form part of block K. It is proposed to have a hedgerow along the boundary to provide a green buffer, which offers some sight protection to the LWS, although concerns have been raised regarding the long-term management of the hedge as well as the proximity of residential gardens because there is the potential for garden waste to be tipped over the hedge into the LWS. The Ecology Unit has sought a wider undeveloped buffer between the LWS and the gardens.

- 10.136 The rear gardens abutting the settling bond are small in size and there is limited scope to provide a particularly meaningful buffer. The applicant has however indicated that a fence could also be provided parallel to the hedgerow which would leave the banks of the settling pond as access for maintenance and discourage potential mis-use by the owners of the adjacent houses. The area immediately adjacent to the settling pond would fall under the responsibility of a management company. The properties that border onto the LWS could also be provided with garden/green waste bins, at the applicant's expense, to further discourage any tipping of garden waste into the LWS.
- 10.137 None of the trees within the development site are protected through a formal Tree Preservation Order however as the site is within a Conservation Area all trees above a certain size are automatically protected.
- 10.138 The majority of the trees that are proposed to be removed in order to facilitate the development are of low quality and provide limited amenity value. There are however two trees that are proposed to be removed which have been identified as being good quality, both in terms of their health and amenity value. One of these trees is located to the west of block G (extension to the mill) and the other is located close to the canal in between block A (original mill) and block J (new build terrace). The proximity of these two trees to the new development makes their retention very difficult from a construction point of view.
- 10.139 The loss of trees on the site needs to be balanced against the benefits of the development as a whole. The applicant is proposing to compensate for the loss of trees on the site with new planting and the proposed layout indicates that replacement trees would be provided in the same locations as the two trees which have been mentioned above. It is important that mitigation planting is of sufficient quantity and quality to replace the amenity value lost as it will take many years for replacements to reach sufficient size and stature to effectively replace the lost amenity value. Details of the compensatory tree planting will form part of the detailed landscaping scheme which would be required by condition.
- 10.140 The applicant has submitted information to demonstrate that the trees along the River Colne can be retained and protected during the construction of the proposed development. As these trees are a strong visual feature of the site it is important that they are protected. A condition requiring information to demonstrate that the measures set out in the applicant's Arboricultural Method Statement have been complied with is recommended.

#### Other Matters

- 10.141 There is not a formal public right of way within the site although there is an unmarked path that crosses the site in an east-west direction and connects the canal towpath with Low Westwood Lane.
- 10.142 The proposal makes provision for public access through the site. The layout includes access from the canal towpath into the development site; this is at the western end of the site and just to the east of the mill buildings. Further public access into the site can be gained via the main access road as well as along the existing drive entrance on the southern side of the settling pond.

- 10.143 Pedestrian access through the site would be along a mixture of dedicated pedestrian walkways, shared surface and adoptable 2m wide footway. The applicant has provided a plan which shows the proposed public right of way through the site. The dedication of a public access right can be secured via the Section 106.
- 10.144 Securing formal public access through the site, which will enable the public to access the proposed open space and continue to use an informal route across the applicant's land, is a benefit of the application.
- 10.145 The separate parcel of open space that is divorced from the development site and within the applicant's ownership would continue to be accessible from the canal towpath.
- 10.146 The site is located to the south of the Huddersfield Narrow Canal, which is supported above the site by means of an existing embankment. The Canal and River Trust have been consulted on the application (as amended) and no objections have been raised. This is subject to a condition requiring a risk assessment and method statement to ensure that the means of construction and final design of the proposed development do not undermine the integrity of the supporting structure.
- 10.147 The site is potentially contaminated because of its historic use. To this end a suite of conditions are recommended to address potential contamination issues.
- 10.148 The Police Architectural Liaison Officer raises no objection to the application on the basis that the recommended Secured by Design advice has been incorporated into the scheme.
- 10.149 To promote lower carbon forms of transport and mitigate the impact of the development on air quality it is considered that electric vehicle recharging points should be provided. A condition is therefore recommended requiring details of a scheme for the provision of electric vehicle recharging points for the individual dwellings. This is to accord with Policy LP24 of the Kirklees Local Plan, guidance in the NPPF and the West Yorkshire Low Emissions Strategy (WYLES).

#### Climate change

- 10.150 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.151 The proposal involves the recycling of some previously developed (brownfield) land and in this regard represents an efficient use of land and resources.

10.152 The scheme provides replacement tree planting as part of the proposed layout as well as supplementary tree planting in an area of managed woodland to the west of the site. This will help to mitigate the impact of the development on climate change.

10.153 The accessibility of the site to the adjacent canal, which is integrated into the proposed layout, will facilitate and help to promote low emission forms of transport. In addition, electric vehicle recharging points would be provided which will help to mitigate the impact of this development on climate change. Suitable cycle storage facilities are also proposed.

## **11.0 CONCLUSION**

11.1 There are a number of significant planning issues associated with this application, not least heritage, Green Belt and flood risk matters.

11.2 The Grade II\* status of the mill complex means that it is in the top 8.3% of listed buildings in England. The building is however in poor condition and is included on Historic England's 'at risk' register. Very considerable weight is therefore attached to the proposed restoration of the mill, which is supported by Historic England.

11.3 The restoration of the mill can only be realised with a substantial amount of new build development, which is predominantly located within the Green Belt. This aspect of the scheme represents inappropriate development in the Green Belt and should only be approved in very special circumstances. Officers consider that this 'enabling development' to facilitate the restoration of the mill constitutes very special circumstances to outweigh the harm to the Green Belt.

11.4 The site sits next to the River Colne and is located in a high flood risk area, which includes functional floodplain. The applicant has carried out their own site-specific flood modelling and is proposing to carry out engineering works that would mean that new development falls outside of the revised functional floodplain boundary. There is however a degree of flood risk to some of the proposed development. The layout has sought to minimise this as far as reasonably practicable and the applicant is proposing a series of measures designed to mitigate the risk. This risk has been weighed in the planning balance and officers have concluded that the scheme can be supported.

11.5 The design of the proposal is considered to be of high quality and will deliver a number of benefits including significant on-site open space, public access through the site, the restoration of the original mill pond and an improved aspect to the canal corridor. The development would also deliver a 'windfall' of 127 dwellings that would contribute towards the council's housing delivery targets within the Local Plan. A net gain to biodiversity would also be secured as part of any permission.

- 11.6 The viability of the scheme is significantly affected by the costs of restoring the listed buildings and this means that the scheme is unable to deliver affordable housing or meet the full education requirement. The proposal would nevertheless deliver some financial planning gain (£90,000).
- 11.7 The highway impacts of the development are considered acceptable.
- 11.8 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.9 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time limit (3 years)
2. Development in accordance with the approved plans
3. Detailed scheme for the mill conversion works (scope of repair and refurbishment)
4. Approval of samples of materials
5. Detailed hard and soft landscaping scheme (soft landscaping to address biodiversity net gain and provide suitable replacement tree planting)
6. Noise assessment and noise mitigation
7. Detailed highway design (including internal road layout, highway retaining structures, proposed footway to site frontage)
8. Construction method statement to mitigate the impacts of construction
9. Provision of all of the proposed flood mitigation measures
10. Flood evacuation plan
11. Scheme for detailed drainage design
12. Temporary drainage during construction
13. Scheme to deliver a biodiversity net gain
14. Risk assessment and method statement to protect the canal retaining embankment
15. Suite of contaminated land conditions (Phase II site investigation, remediation and validation)
16. Scheme for the provision of electric vehicle recharging points
17. Submission of evidence/confirmation that the measures set out in the arboricultural method statement have been complied with
18. Details of provision of heritage interpretation board or similar feature to aid public understanding of the importance of the mill site
19. Garden waste bins to be provided for properties within block K that back onto the settling pond

**Background Papers:**

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90710+>

Certificate of Ownership – Certificate B signed (Notice served on Mr. D Wilson)

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2020/91813 Discharge of conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development rear of, 11, Holme Avenue, Dalton, Huddersfield, HD5 8DP**

### APPLICANT

B Marsden

### DATE VALID

16-Jun-2020

### TARGET DATE

11-Aug-2020

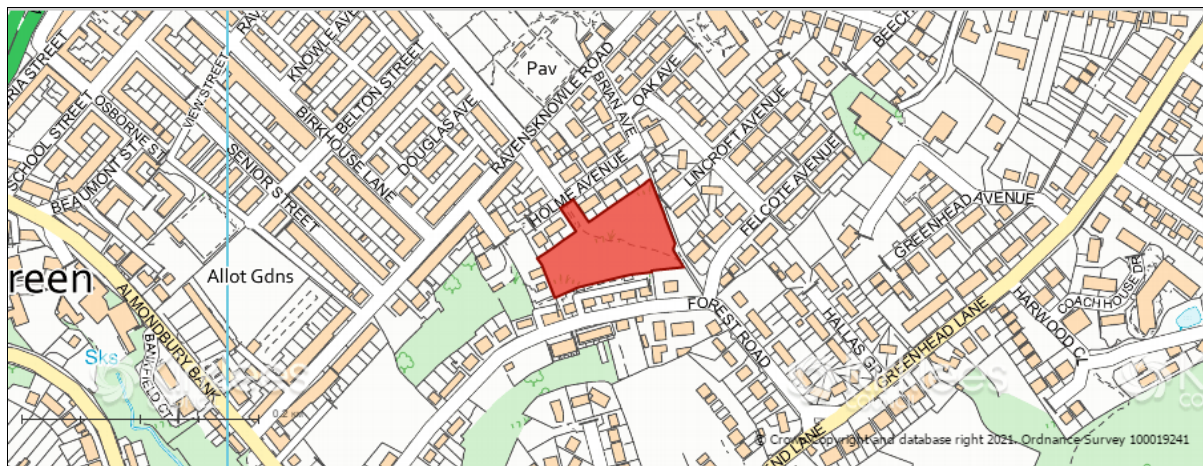
### EXTENSION EXPIRY DATE

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Almondbury**

**Ward Councillors consulted: No**

**Public or private: Public**

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**RECOMMENDATION:**

APPROVE the discharge of conditions.

**1.0 INTRODUCTION:**

- 1.1 The application site has planning permission for the erection of 22 dwellings by virtue of outline planning application 2018/91119 and reserved matters application 2019/93068.
- 1.2 The outline application was approved by the Huddersfield Sub-Committee on 9<sup>th</sup> August 2018. As part of the committee resolution planning obligations for affordable housing, public open space and education provision were to be secured by way of conditions. Conditions 14, 15 and 16 on the decision notice reflect this.
- 1.3 The applicant has applied to discharge these three conditions. No affordable housing, open space or education contributions are proposed on the basis that the scheme would not be financially viable if they were provided. A viability assessment to support the applicant's case has been submitted and this has been independently appraised on behalf of the Council. The independent assessor has advised that the scheme would be unviable with the inclusion of such planning obligations.
- 1.4 The discharge of conditions application is brought forward to the Strategic Planning Committee in the interests of transparency. The Huddersfield Sub-Committee resolved to approve the outline application with the expectation that planning obligations relating to affordable housing, open space and education would be provided as necessary as part of the final development. However, based on the viability assessment that has been undertaken, no such obligations are to be secured.
- 1.5 Furthermore, discharge of condition applications are not subject to any formal publicity in the way that other planning applications are, although they are in the public domain. As such there is generally a lesser degree of public scrutiny on this type of application.
- 1.6 In light of the above, officers consider that it is appropriate for members to be given an opportunity to formally consider this application.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site is a steeply sloping parcel of undeveloped land surrounded by residential development.

2.2 The site was allocated for housing in the Kirklees Unitary Development Plan (1999-2019) and the allocation was carried forward within the Local Plan. The allocation was not taken up during the previous plan period although two separate outline applications were submitted in 2014 and 2018 respectively, with both applications approved. The council has previously identified this site as being a 'stalled' site. It is noted as well that there have been other planning permissions on the land that pre-date the Unitary Development Plan.

### 3.0 PROPOSAL:

3.1 The application is seeking to discharge conditions 14 (affordable housing), 15 (public open space) and 16 (education) of previous permission 2018/91119 for outline application for erection of residential development.

3.2 The full wording of the relevant conditions is set out below:

*14. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of affordable housing within the development have been submitted to and agreed in writing by the Local Planning Authority. The arrangements shall cover the following matters:*

- a) The number and type of affordable housing units to be provided;*
- b) The layout and disposition of the unit's affordable housing to be provided;*
- c) The timescale for the implementation and completion of the affordable housing units; and*
- d) The mechanism for ensuring that the affordable housing units remain affordable for both the initial and subsequent occupiers.*

**Reason:** *To ensure the provision of affordable housing in accordance with the requirements of policy H10 of the Kirklees Unitary Development Plan and the Kirklees Interim Affordable Housing Policy and emerging Policy PLP11 of the Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of affordable housing are provided and agreed at an appropriate stage of the development process.*

*15. No material operation as defined in section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of public open space to serve the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:*

- a) The layout and disposition of the public open space;*
- b) The timescale for the implementation and completion of the works to provide the public open space;*
- c) The mechanism for ensuring that the public open space will be available for public within perpetuity; and*
- d) Maintenance of the public open space in perpetuity.*

**Reason:** *To ensure the provision of open space to serve the development and in accordance with Policy H18 of the Kirklees Unitary Development Plan and Policy PLP63 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of open space provision are provided and agreed at an appropriate stage of the development process.*

16. No material operation as defined in Section 56(4)(a)-(d) of the Town & Country Planning Act 1990 shall be carried out to commence the development pursuant to this planning permission until arrangements for the provision of educational facilities to serve the needs of the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall facilitate an increase in the capacity of local schools commensurate with the demands of the development.

**Reason:** To ensure provision of educational facilities to mitigate the impacts of the development and in accordance with Policy PLP49 of the Kirklees Publication Draft Local Plan. This is a pre-commencement condition to ensure that details of education provision are provided and agreed at an appropriate stage of the development process.

#### **4.0 RELEVANT PLANNING HISTORY:**

2019/93068 Reserved matters application pursuant to outline permission  
2018/91119 for erection of residential development, decision issued 29/05/20.

2018/91119 Outline application for erection of residential development –  
Approved by the Huddersfield Planning Sub-Committee 09/08/2018, decision  
issued 14/08/2018.

2014/92369 Outline application for residential development – Approved

91/02565 Renewal of unimplemented outline application for residential  
development – Approved

87/02023 Outline application for erection of residential development –  
Approved

#### **5.0 HISTORY OF NEGOTIATIONS:**

5.1 No negotiations undertaken.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

6.2 The site is allocated for housing in the Kirklees Local Plan.

#### **6.3 Kirklees Local Plan (2019):**

LP11 – Housing Mix and Affordable Housing  
LP49 – Educational and healthcare needs  
LP63 – Open Space

#### **6.4 National Planning Guidance:**

Chapter 4 – Decision-making  
Chapter 5 – Delivering a sufficient supply of homes

6.5 Other considerations:

Kirklees Planning Viability Guidance Note (June 2020)  
Planning Practice Guidance – Viability  
Kirklees Interim Affordable Housing Policy – January 2020

**7.0 PUBLIC/LOCAL RESPONSE:**

7.1 No publicity was undertaken.

**8.0 CONSULTATION RESPONSES:**

8.1 The applicant's viability assessment was independently assessed and is discussed within the appraisal below. No other consultation was undertaken.

**9.0 APPRAISAL**

9.1 The outline permission requires the applicant to provide details of the arrangements for the provision of affordable housing, open space and education facilities before development commences.

9.2 The outline permission did not approve the total number of dwellings on the site. The number of units was agreed through the reserved matters application whereby a layout for 22 dwellings was approved.

9.3 Policy LP11 of the Kirklees Local Plan requires 20% of dwellings to be affordable on residential developments of over ten dwellings. Four affordable dwellings would therefore be sought from this development.

9.4 Policy LP63 of the Kirklees Local Plan requires residential developments of over ten dwellings to make provision for open space. The layout that has been approved does not provide any on-site open space and therefore an off-site contribution would be applicable on this scheme.

9.5 The threshold for a contribution towards education provision is 25 dwellings. The approved layout falls below this threshold and so an education contribution would not be sought. As such, the requirements of condition 16 effectively fall away.

9.6 The applicant is not proposing to provide any contributions towards affordable housing or open space. This is on the basis that the provision of such obligations would render the scheme unviable. The application is supported by a financial viability assessment which indicates that there are some significant abnormal costs which affect the viability of the scheme, specifically the cost of providing the necessary retaining structures on this steeply sloping site.

9.7 The applicant's financial viability assessment has been independently appraised on behalf of the Council. The independent assessment indicates that with the provision of four affordable units on the site and a financial contribution towards open space the scheme would turn an extremely nominal profit (approximately £38,000). The level of profit generated is vastly below the 15-20% of gross development value which is generally considered to be a suitable return to developers - as suggested within published Planning Practice Guidance.

- 9.8 When affordable housing and open space are omitted from the scheme, the development would yield a profit of slightly over £1m which represents a profit level of 17% of the gross development value. This level of profit therefore falls within generally accepted parameters.
- 9.9 There are a number of factors that determine what a reasonable level of profit might be, including the availability of development finance, the state of the market and the consequent risk in proceeding with schemes, as well as development values and demand. On lower risk developments a profit level of around 15% may be reasonable whereas on higher risk developments a profit level in the region of 20% may be more suitable. In determining the appropriate level for an individual development, regard will be had to the individual characteristics of that scheme.
- 9.10 The independent assessor considers that 17% is an appropriate return on this site. This is mainly because of its topography which makes it a challenging site to build-out and its impact on the nature of the new dwellings. For example, a large proportion of the properties will have a very significant retaining wall situated immediately to their rear boundary. There is also a degree of uncertainty in the housing market as a result of the Covid-19 pandemic.
- 9.11 Officers consider that the independent appraisal represents a robust and accurate assessment of the development costs and accept that the profit level is suitable.
- 9.12 It is therefore recommended that condition 14 (affordable housing) and condition 15 (open space) are discharged on the basis that 'nil' contributions are being provided. No education provision is accepted on the basis that the development falls below the threshold (25 units) for a contribution.

## **10.0 CONCLUSION**

- 10.1 The long-standing allocation of the site and its planning history indicate that this is a difficult site to bring forward and this has previously been recognised by the council through its acknowledgement as a 'stalled site'.
- 10.2 Having considered the applicant's viability assessment and the conclusions of the independent assessor, officers are satisfied that the development would not be financially viable with the inclusion of affordable housing and open space. This is principally because of the topography of the land and the need for significant retaining structures.
- 10.3 To facilitate this housing site coming forward, it is recommended that the conditions requiring the provision of affordable housing and open space are discharged, as set out within this report. The condition requiring an education contribution falls away because the number of dwellings (layout) that was subsequently approved under the reserved matters application does not meet the trigger for a contribution.

### **Background Papers:**

Application and history files.

Website link:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f91813>

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2020/90450 Erection of restaurant with drive-thru, car parking, landscaping, play frame, customer order displays and associated works. land at, Owl Lane, John Ormsby V C Way, Shaw Cross, Dewsbury, WF12 7RQ**

#### APPLICANT

McDonald's Restaurants  
Ltd

#### DATE VALID

11-Feb-2020

#### TARGET DATE

07-Apr-2020

#### EXTENSION EXPIRY DATE

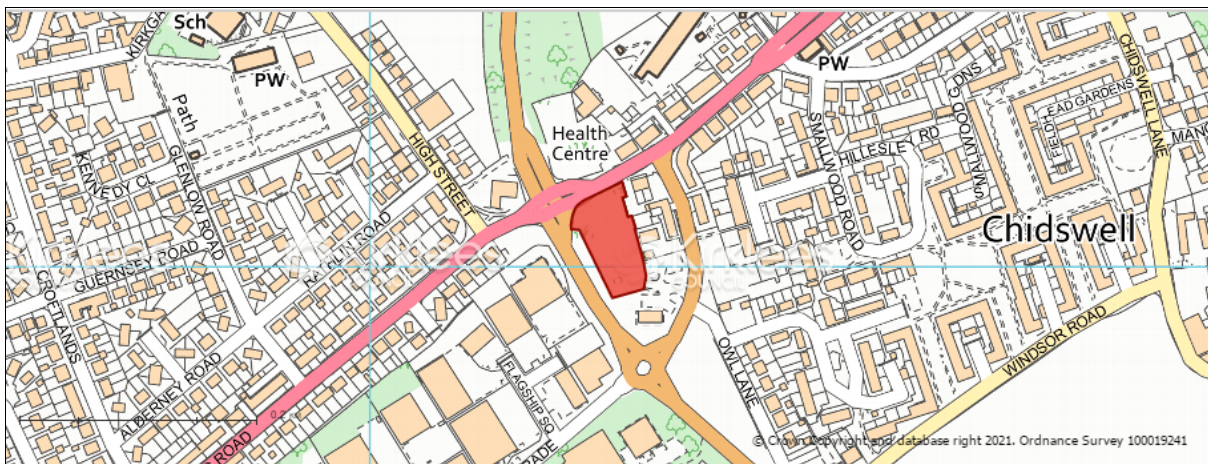
01-Feb-2021

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#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Dewsbury East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

**1.0 INTRODUCTION:**

1.1 The application is brought to Strategic Planning Committee at the request of Councillor Eric Firth who states:

*"I have some concerns re the traffic and the impact on local residents on Owl Lane"*

1.2 The application site is located adjacent to the Leeds Road/John Ormsby VC Way Junction where a strategic transport infrastructure project is proposed as set out within the Kirklees Local Plan (Site TS5).

1.3 In addition to the above, a significant number of representations have been received as a result of site publicity.

**2.0 SITE AND SURROUNDINGS:**

2.1 The site comprises an area of 0.35ha and is located at the junction of Leeds Road and John Ormsby VC Way, Shaw Cross, currently characterised by scrub land and containing a number of trees. The site lies adjacent to residential properties to the east, and a detached two storey office building to the south west. The northern and western boundaries of the site adjoin the road network of Leeds Road and John Ormsby VC Way.

2.2 The immediate locality is characterised by residential and commercial development, with the existing commercial development having a strong presence to the south of the site.

**3.0 PROPOSAL:**

3.1 The submitted proposals relate to the erection of a restaurant with drive thru, car parking, landscaping and associated works, including customer order displays (COD) and a play frame.

3.2 Access would be taken from Owl Lane to the south east, leading to the associated car park containing 38 parking spaces, and internal circulation areas.

3.3 The proposed restaurant building would be located on the northern part of the site with drive thru lane(s) running alongside the eastern and western elevations of the building.

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2020/90443 – Advertisement consent for erection of illuminated sign – pending consideration

2020/90444 – Advertisement consent for erection of illuminated and non-illuminated signs – pending consideration

2020/90445 – Advertisement consent for erection of illuminated signs and booth lettering

2019/20147 – Pre-application enquiry for erection of a restaurant with drive thru – advice given

2016/92953 – Outline application for erection of restaurant and hot food outlets – conditional outline permission

2015/93898 – Outline application for erection of restaurant, retail outlet and hotel – Withdrawn

2010/92846 – Removal of Condition 3 on previous application ref 2004/90778 for outline application for erection of hotel – refused

2006/92257 - Reserved Matters Application for erection of Hotel with Restaurant – approval of reserved matters

2004/90778 – Outline application for erection of hotel – conditional outline permission

2000/92074 – Outline application for erection of hotel and B1 office building – Granted under Reg 3 General Regulations.

#### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

5.1 Through the course of the application, negotiations have taken place with respect to highway matters specifically relating to the proposed Leeds Road/John Ormsby VC Way junction improvements, whilst additional and amended information has been received following consultation responses from KC Environmental Health and KC Ecology.

#### **6.0 PLANNING POLICY:**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019).

## 6.2 Kirklees Local Plan (2019):

The site is allocated as Priority Employment Area on the Local Plan.

**LP1** – Presumption in favour of sustainable development

**LP2**– Place shaping

**LP8** – Safeguarding Employment Land and Premises

**LP13** – Town Centre Uses

**LP16** – Food and drink uses and the evening economy

**LP19** – Strategic Transport Infrastructure

**LP20** – Sustainable Travel

**LP21** – Highways and Access

**LP22** – Parking

**LP24** – Design

**LP27** – Flood Risk

**LP28** – Drainage

**LP30** – Biodiversity and Geodiversity

**LP33** - Trees

**LP34** – Conserving and enhancing the water environment

**LP47** – Healthy, Active and Safe Lifestyles

**LP52** – Protection and improvement of environmental quality

**LP53** – Contaminated and Unstable Land

## 6.3 Supplementary Planning Guidance / Documents (SPD):

- Highway Design Guide Supplementary Planning Document
- Draft Hot Food Takeaway SPD - The Council started to prepare a Hot food Takeaway SPD to consider the location and impact of new takeaways and add further guidance to Local Plan policies. The preparation of this guidance is on hold due to the relaxation of planning restrictions on restaurants providing takeaway services in the Covid-19 situation and is likely to be revisited in late 2021. The emerging SPD carries no weight in decision making at this stage and Local Plan policies should continue to be used to determine applications for new Hot Food Takeaways.

## 6.4 National Planning Guidance:

**Chapter 6** – Building a strong, competitive economy

**Chapter 7** – Ensuring the vitality of town centres

**Chapter 8** – Promoting health and safe communities

**Chapter 9** – Promoting sustainable transport

**Chapter 12** – Achieving well-designed places

**Chapter 14** – Meeting the challenge of climate change, flooding and coastal change

**Chapter 15** – Conserving and Enhancing the Natural Environment

## 6.5 Climate Change

On 12 November 2019 the Council adopted a target for achieving “net zero” carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system, and these principles have been

incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target, however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application was publicised by site notice and neighbour notification letter. 70 representations were received in relation to the initial round of site publicity. Of these, 60 representations were in objection to the application, whilst 10 were in support or a general comment. The objections received are summarised as follows:

### Residential Amenity

- The development would result in noise disturbance
- The development would result in odour
- The speeding up and down Leeds Road and Owl Lane on an evening by anti social drivers would likely increase with an additional place to congregate in McDonalds car park
- The development would result in additional air pollution
- The development will attract vermin
- This is a residential area, not commercial
- Do not want high walls blocking sunlight to neighbouring houses

### Visual Amenity

- The appearance of the development would not be acceptable
- The corner could be further developed as open space as per on the opposite side of the road

### Highway Safety

- Current traffic management is bad at peak times; this development will add to that
- Concerns about highway and pedestrian safety around the site access
- The location would be more suitable to a more traditional restaurant without a drive through and hence less traffic and less of a negative environmental affect in the local area
- Proposed car parking provision is inadequate

### Drainage/Flood Risk

- The site is currently green and permeable which undoubtedly helps ensure all precipitation does not run off. The roundabout is often flooded during periods of any persistent rain

### Other Matters

- The development would attract litter
- There is a McDonalds down the road in Wakefield
- McDonalds should be located in the Town Centre to encourage people to visit and shop there

- The development promotes fast food in an area close to several primary schools and sporting venues
- The development will have a negative impact on the proposed plans for future residential development in the area
- The development would have a detrimental impact upon local cafes in the area
- It would be better if the Council encouraged alternative proposals to serve the planned increase in homes in this area; adding some form of infrastructure would be more beneficial, e.g shops, post office, doctors surgery, chemist, park.
- Refer to KC Healthy Eating Initiative
- House values will decrease
- Was previously advised that the site was earmarked for a hotel development and would never be used for a fast food takeaway and restaurant

7.2 The general/supporting comments received in response to site publicity are summarised as follows:

- There isn't much around this area; consider that they will get a lot of custom, especially on game days
- Would be nice to have a new business in the area that takes the place of the overgrown wasteland that has been there for years.
- The development would create new jobs and opportunities for young people in the area
- Healthy eating is the pure responsibility of individuals and not the responsibility of the Council and/or the proposer
- Support the proposal; suggest that consideration should be given to resurfacing the surrounding approach roads due to the increase in traffic resulting from the development

7.3 Although there is no statutory requirement under the DMPO to re-consult on planning applications, a further consultation on additional/amended details was undertaken by letter dated 30 November 2020 for a period of 14 days. A further 12 representations were received in response (11 in objection and one in support). The comments received echo those set out above.

7.4 The Dewsbury East ward members were notified of the application. Councillor Eric Firth responded to state *"I have some concerns re the traffic and the impact on local residents on Owl Lane"*. Councillor Firth requested a Committee decision, should Officers be recommending approval of the application.

## 8.0 CONSULTATION RESPONSES:

### 8.1 Statutory:

**KC Highways DM:** No objections

**KC Environmental Services:** Recommend imposition of conditions

**KC Trees:** No objections subject to imposition of condition

## 8.2 Non-statutory:

**Yorkshire Water:** No objection subject to imposition of condition

**KC Planning Policy:** No objection

**KC Ecology:** Response awaited in relation to most recent information submitted in January 2020.

**West Yorkshire Police Architectural Liaison Officer:** Recommends crime prevention measures to be incorporated into the development

## 9.0 MAIN ISSUES

- Principle of development
- Urban design issues
- Residential amenity
- Highway issues
- Landscape issues
- Drainage issues
- Representations
- Other matters

## 10.0 APPRAISAL

### Principle of development

10.1 The site is allocated as part of a larger Priority Employment Area (PEA28) on the Kirklees Local Plan (KLP), and therefore consideration has to be given to Policy LP8 of the Kirklees Local Plan. Priority Employment Areas house established businesses and industry sites that warrant protection from changes of use.

10.2 Policy LP 8, criterion 1, of the KLP applies in this case:

“Proposals for development or re-development for employment generating uses (as defined in the Glossary) in Priority Employment Areas will be supported where there is no conflict with the established employment uses (as defined in the Glossary) in the area. In instances where the site is out of centre and the proposal includes main town centre uses then policy LP 13 will need to be applied”.

10.3 The proposed restaurant use is an employment generating use, as defined in the glossary ..... ‘*And enterprises which provide jobs, for example, retail, hotel, assembly and leisure and certain non-residential Sui Generis uses (such as clubs, cash and carry businesses and builders merchants)*’. Therefore, as long as there will be no conflict between the proposed use and the existing employment uses in the area, the proposal would comply with Policy LP 8 of the KLP.

10.4 In this instance, the proposal is an employment generating use (with 65 jobs proposed) and it is considered that there would be no conflict with existing business uses. As such, it is considered that the proposed development would accord with Policy LP 8 of the KLP.

## Sequential Test

- 10.5 The proposal comprises a main town centre use on a site located outside of the town centre of Dewsbury. In accordance with Policy LP13 of the KLP, main town centres uses shall be located within defined centres. Proposals for main town centre uses located outside of the defined centre boundaries require the submission of a Sequential Test to demonstrate that there are no suitable sites within existing centres. Main town centre uses shall be first located in the defined centres, then edge of centre locations and only if there are no suitable sites shall out of centre locations be considered.
- 10.6 As required, the applicant has submitted a supporting statement which includes a sequential test for the proposed development. The applicant sets out their business model and parameters for the sequential test which are;
- approx. 0.3ha of available space
  - space required to successfully operate including sufficient parking to meet the operational needs of the proposal.
  - Generally, a single drive-thru requires 20,000 passing traffic movements for a roadside location or other 'attractors'.
- 10.7 The catchment for the proposal is focused on Dewsbury Town Centre and around the wider surrounding area to the north, east and west of the centre. The applicant states that there are no suitable sites within or on the edge of Dewsbury Town Centre. Bradford Road to Batley Town Centre and to the north has also been considered in addition to Halifax Road to the north of Dewsbury Town Centre and Savile Road and Thornhill Road to the south. No sequentially preferable sites have been identified.
- 10.8 The applicant also refers to supermarket car parks and that none have available or surplus land or car parks in the wider area. There is currently a planning application (2019/94107) for the erection of a drive-thru coffee shop in the car park of Asda at Mill Street West Dewsbury. The site area is 0.27 ha and this is in an edge of centre location. The application has been made by Euro Garages Ltd in conjunction with Asda stores for a new coffee shop drive thru. It is considered therefore that this site is not available due to the proposed development.
- 10.9 The Council is not aware of any sequentially preferable sites in, on the edge or in accessible out of centre locations within the catchment that would be suitable for the proposal. Therefore, the sequential test has been passed.
- 10.10 Outline planning permission was previously granted on this site for a restaurant and hot food outlets in May 2017. This has now lapsed.
- 10.11 The proposal is located immediately adjacent to a highway junction where road improvements have been identified in the Local Plan on the Mirfield to Dewsbury to Leeds and North Kirklees growth zone transport scheme site TS5.

- 10.12 Policy LP19 of the KLP states that proposals that may prejudice the future of development of identified highways improvements will not be permitted. The details of Site TS5 are set out in the Local Plan allocations and designations document. In relation to the Shaw Cross junction, it states that;

*'There will be improvements along the A653 corridor between Dewsbury and Leeds, in particular, at the junction of the A653 and B6128 (Shaw Cross) to facilitate improvements to bus and car journey times between Dewsbury and Leeds proving more efficient journeys to Leeds city centre. White Rose, Aire Valley and the M62 corridor and to accommodate a major mixed-use allocation Chidswell.'*

- 10.13 The proposed development must not prejudice the future development of this identified highways improvement. Negotiations have taken place in respect of this matter throughout the course of the application and this is expanded upon below.

#### Urban Design issues

- 10.14 The application site comprises an area of scrubland containing a number of trees. The immediate locality is characterised by residential and commercial development, with the existing commercial development having a strong presence to the south of the site. Neighbouring residential properties are located to the east of the site, predominantly of terraced stone construction, with some examples of later detached properties.
- 10.15. The proposed restaurant would be single storey in scale, faced in a combination of materials comprising mixed timber effect, contemporary grey block and stone effect panels in addition to a glazed customer area addressing the frontage of the site. The drive-thru element would be located on the north western part of the site.
- 10.16 There are no objections to the proposed design of the building which would preserve the visual amenity of this mixed use area which is not characterised by one particular built-form/use of materials.
- 10.17 Some areas of landscaping are proposed along the boundaries of the site. It is considered that these areas would add some visual interest within the site and are welcomed.
- 10.18 In summary, the proposals are considered acceptable from a visual amenity perspective and would accord with the aims of Policy LP24 of the KLP and chapter 12 of the NPPF.

#### Residential Amenity

- 10.19 Policy LP16 of the KLP states proposals for food and drink uses should take into account the impacts of noise, general disturbance, fumes, smells, litter and late night activity, including those impacts arising from the use of external areas. The surrounding area is a mixed use area with the nearest neighbouring residential properties being located to the east of the site: 732 - 738 Leeds Road, and 18-18A Owl Lane.

- 10.20 It should be noted that a previous outline permission was granted in 2017 for restaurant and hot food outlets. This has now lapsed, although it established at the time that a similar use would be compatible with residential development, subject to appropriate mitigation.
- 10.21 No specific details have been supplied in respect of the proposed hours of opening to customers. Whilst it is noted that a number of developments incorporating Drive-thrus may operate 24 hours a day, in this instance, due to the presence of existing residential properties to the east, a 24 hour operation would not be considered to be in the interests of residential amenity. As such a specific condition is necessary to restrict the hours of opening to customers (05:00 until midnight on any day) with a separate condition relating to hours of deliveries (09:00 until 22:00 Monday to Saturday). The applicant's agent has confirmed their agreement to the recommended conditions, should approval be granted.

#### Noise and Odour

- 10.22 The site is located on a busy junction where some existing noise from road traffic will currently be experienced by residents adjacent the site, however the proposed development would introduce an element of additional noise and odour. Commercial cooking odour in particular will be introduced into the area where it is not currently experienced. A Noise Impact Assessment and Odour Control Assessment have therefore been submitted as part of the application.
- 10.23 The submitted Noise Report makes an assessment of the main noise sources at the site taking into consideration the noise attenuation that will be provided by a 4.6m high acoustic barrier to be installed along part of the site boundary, which was also proposed at the time of the 2017 approval (and formed the basis of a planning condition). The Report also considers the impact of noise from external plant, vehicles within the car park, noise from car doors slamming, in addition to deliveries which are expected to occur around 3 times a week with an approximate 30 minute duration. The report predicts that, at nearby properties, the rating noise level from these deliveries will be less than the background noise levels and will therefore have no more than a low impact.
- 10.24 KC Environmental Health consider that the Noise Report makes a satisfactory assessment of the likely noise from the site and the impact that noise will have on nearby noise sensitive premises. Conditions, in line with the conclusions of the above-mentioned Noise Assessment and Response Statement, are necessary to ensure that noise from the site continues to be effectively controlled, in accordance with Policies LP 16 and LP 52 of the KLP and Chapter 15 of the NPPF.
- 10.25 With respect to odour, the submitted Odour Assessment includes a risk assessment based on the DEFRA and EMAQ Guidance on 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The overall odour risk rating of the proposed restaurant has then been used to determine the level of odour control to be installed, which indicated that a very high level of odour control was required. The report details the different types of filter that are to be installed, to remove grease and odours and the maintenance schedule for each of the corresponding components. The report also states that the kitchen exhaust will terminate at the highest point of the building, exiting via an unrestricted vertically high velocity discharge terminal to provide the effective

dispersal to atmosphere. KC Environmental Health consider the content and conclusions of the report to be acceptable, subject to the imposition of a condition to ensure that odour from the site continues to be effectively controlled, in accordance with Policies LP16 and LP 52 of the KLP and Chapter 52 of the NPPF.

- 10.26 A Construction Management Plan has been submitted by Glanville (Ref:MD4190299/CP/013) (Dated 7th September 2020). This report details the measures that are to be implemented to control, noise, dust, site security and hours of working during the construction phase. Deliveries and dispatches to and from the site are to be programmed to be as efficient as possible to minimise vehicle movements and journey distances to reduce the impact of the development on the amenity of neighbouring residents. This can be controlled by condition.
- 10.27 With regard to the built form of the development, due to the scale and siting of the building relative to the neighbouring dwellings, in addition to the separation distance that would be retained between the proposed building and the residential properties, there would be no undue harm caused to the residential amenity of these occupants by virtue of either overbearing or overlooking impact, in accordance with the aims of Policy LP24 of the KLP.
- 10.28 To summarise, subject to the inclusion of appropriate conditions, the proposals are considered acceptable from a residential amenity perspective, in accordance with policies LP16, LP24 and LP52 of the KLP as well as Chapter 15 of the NPPF.

#### Highway issues

- 10.29 The site is located directly south east of the signalised junction of the A653 Leeds Road and the B6128 (Challenge Way to the north of the junction and John Ormsby VC Way to the south of the junction). Access to the site is from Owl Lane via an existing adopted access road.
- 10.30 The application is supported by a Transport Statement prepared by ADL Traffic and Highways Engineering Ltd.
- 10.31 The proposed layout includes a total of 38 No. car parking spaces, inclusive of 2 no. accessible bays, 4 no. electric vehicle charging point (EVCP) and 2 no. Grill Bays, with provision for 4 no. sheltered cycle stands for 8 no. cycle parking and 4 no. Motorcycle bays.
- 10.32 Pedestrian access to the restaurant would be from the access road and a further point of access for pedestrians is proposed from John Ormsby VC Way at the north west corner of the site, providing access to the store via a zebra crossing across the drive thru lane, providing direct access to the patio area.
- 10.33 The applicant states that Restaurants such as this typically receive three deliveries per week. On the day of the delivery the GPS system will automatically email the restaurant 30-minutes prior to the vehicle's arrival. Staff can then prepare for the delivery arrival and cone off the delivery vehicle loading area. The goods are delivered by articulated lorry, typically 16.5m in length. This is typically parked for between 15 minutes – 1 hour.

- 10.34 Refuse collection would be collected by a private contractor 3 times per week and would occur outside of peak hours.
- 10.35 A stage 1 Road Safety Audit has been undertaken for the site access junction from Owl Lane and internal layout and this has not highlighted any issues that cannot be resolved at the detailed design stage. The proposed site access and internal layout arrangements are considered acceptable and in accordance with Policies LP 21 and LP 22 of the KLP.

#### Junction Improvements

- 10.36 The application site is located immediately adjacent to a highway junction where road improvements have been identified in the KLP on the Mirfield to Dewsbury to Leeds and North Kirklees growth zone transport scheme site TS5.
- 10.37 Policy LP 19 states that proposals that may prejudice the future of development of identified highways improvements will not be permitted. The details of Site TS5 are set out in the Local Plan allocations and designations document. In relation to the Shaw Cross junction, it states that;

*'There will be improvements along the A653 corridor between Dewsbury and Leeds, in particular, at the junction of the A653 and B6128 (Shaw Cross) to facilitate improvements to bus and car journey times between Dewsbury and Leeds proving more efficient journeys to Leeds city centre, White Rose, Aire Valley and the M62 corridor and to accommodate a major mixed-use allocation Chidswell'.*

- 10.38 The applicant has recently submitted an amended site layout which takes the above highways improvements into account. This has been produced following negotiation with applicant's highways consultant and KC Highways DM. KC Highways DM have been re-consulted on this and raise no objections, as the proposed highway improvement works fall within land outside of the applicant's red line boundary. The proposed development would not prejudice the future development of these highway improvement works, in accordance with Policy LP 19 of the KLP. Furthermore, Officers consider that traffic associated with the proposed McDonalds will not have a material or severe impact on the operation of the local highway network.

#### Landscape Issues

- 10.39 The application is accompanied by a Landscape Maintenance and Management Plan and Landscape Plan, which feeds into the Biodiversity Enhancement Plan. A condition would be necessary, should permission be granted, requiring the development to be carried out in accordance with the submitted information, and thereafter retained for a period of 5 years.

#### Flood Risk and Drainage issues

- 10.40 The site is located within Flood Zone 1 and therefore at low risk of flooding.

- 10.41 The applicant has submitted a Drainage Statement which states that foul water will discharge to public combined sewer in Owl Lane pumped at 2 litres/second with the utilisation of grease traps;
- b) sub-soil conditions do not support the use of soakaways;
  - c) the site is remote from watercourse; and
  - d) as a result, surface water will discharge to public combined sewer via storage with restricted discharge of 2.2 litres/second
- 10.42 On the basis of the above, the applicant has demonstrated that they have considered the hierarchy of sustainable drainage, and as a result, the proposals would accord with Policy LP 28 of the KLP.

### Representations

- 10.43 A total of 82 representations were received in relation to this application. The comments in support are noted at Paragraph 7.2. The issues raised in the objections are addressed as follows:

#### 10.44 Residential Amenity

- The development would result in noise disturbance

**Response:** The application is accompanied by a Noise Assessment which considers the impact of noise from external plant, vehicles within the car park, noise from car doors slamming, in addition to deliveries which are expected to occur around 3 times a week with an approximate 30 minute duration. The submitted report has been assessed by KC Environmental Health who conclude that the report makes a satisfactory assessment of the likely noise from the site and the impact that noise will have on nearby noise sensitive premises. Conditions, in line with the conclusions Noise Assessment and Response Statement, are considered necessary to ensure that noise from the site continues to be effectively controlled

- The development would result in odour

**Response:** The application is accompanied by an Odour Control Assessment, the conclusions of which are accepted by KC Environmental Health. A condition is recommended to ensure that the kitchen extract system is installed in accordance with the details contained within the Odour Control Assessment.

- The speeding up and down Leeds Road and Owl Lane on an evening by anti social drivers would likely increase with an additional place to congregate in McDonalds car park.

**Response:** This existing issue is noted. The West Yorkshire Police Architectural Liaison officer has made recommendations regarding the development with respect to site security and surveillance.

- The development would result in additional air pollution

**Response:** As set out within the 'Other Matters' section of the report, provision is included within the proposed site layout for the installation of electric vehicle charging points which would contribute to meeting the aims of the West Yorkshire Low Emissions Strategy.

- The development will attract vermin

**Response:** The application is accompanied by a refuse storage and recycling statement and litter management plan. Refuse is proposed to be stored within a corral and covered refuse store in addition to regular litter patrols daily.

- This is a residential area, not commercial

**Response:** The area in which the application site is located is considered to be a mixed use area comprising both residential and commercial uses.

- Do not want high walls blocking sunlight to neighbouring house

**Response:** The proposals include the provision of an acoustic fence part way along the eastern boundary to protect adjacent occupiers from noise disturbance. This would particularly relate to 18 and 18a Owl Lane. This same arrangement was considered acceptable at the time of granting the previous permission in 2017. The fence is located to the side of the dwellings and not affecting their front or rear aspects. These 2 dwellings have very little external amenity space, and were built next to an industrial location. As such, whilst visually the height of the fence is unusual, the noise protection it would afford in this case is considered to outweigh the impact resulting from its height.

#### 10.45 Visual Amenity

- The appearance of the development would not be acceptable

**Response:** This is addressed within the visual amenity section of the report.

- The corner could be further developed as open space as per on the opposite side of the road

**Response:** The site is allocated as part of a wider Priority Employment Area where the principle of employment generating uses is considered to be acceptable.

#### 10.46 Highway Safety

- Current traffic management is bad at peak times; this development will add to that

**Response:** The application has been assessed by KC Highways DM who consider the highways impacts of the development to be acceptable.

- Concerns about highway and pedestrian safety around the site access

**Response:** A Road Safety Audit focusing on the site access and internal layout of the site has been undertaken, to which KC Highways DM raise no objections

- The location would be more suitable to a more traditional restaurant without a drive through and hence less traffic and less of a negative environmental affect in the local area

**Response:** : The application has been assessed by KC Highways DM who consider the highways impacts of the development to be acceptable.

- Proposed car parking provision is inadequate

**Response:** The parking provision proposed to serve the development is considered to be acceptable from a highways perspective.

#### 10.47 Drainage/Flood Risk

- The site is currently green and permeable which undoubtedly helps ensure all precipitation does not run off. The roundabout is often flooded during periods of any persistent rain

#### 10.48 Other Matters

- The development would attract litter

**Response:** The application is accompanied by a refuse storage and recycling statement and litter management plan which sets out details of the method of storage and removal of refuse, and frequency and extent of litter patrols around the site and its surroundings. This states that the Management of the Restaurant are responsible for reviewing and updating the plan and recording litter patrols.

- There is a McDonalds down the road in Wakefield

**Response:** This is noted

- McDonalds should be located in the Town Centre to encourage people to visit and shop there

**Response:** The applicant has demonstrated that they have undertaken the sequential test and this is addressed within the report

- The development promotes fast food in an area close to several primary schools and sporting venues

**Response:** This is noted, however the site is located within a priority employment area and therefore also in close proximity to industrial development which it could also be expected to serve.

- The development will have a negative impact on the proposed plans for future residential development in the area

**Response:** The nature of the proposed development is considered to be acceptable on this land which is allocated as part of a wider Priority Employment Area

- The development would have a detrimental impact upon local cafes in the area

**Response:** This is noted, however perceived competition between similar uses is not a material planning consideration.

- It would be better if the Council encouraged alternative proposals to serve the planned increase in homes in this area; adding some form of infrastructure would be more beneficial, e.g shops, post office, doctors surgery, chemist, park.

**Response:** The nature of the proposed development is considered to be acceptable on this land which is allocated as part of a wider Priority Employment Area

- House values will decrease

**Response:** This is not a material planning consideration

- Was previously advised that the site was earmarked for a hotel development and would never be used for a fast food takeaway and restaurant

**Response:** Each application is assessed on its own merits, having regard to the Development Plan and policies contained within it. The Council can only assess the suitability of a proposal at the time it is put forward.

### Other Matters

#### 10.49 Contaminated Land

The site located within a Low Risk Area as defined by the Coal Authority, with respect to coal mining legacy, however is identified on the Council's mapping system as potentially contaminated land due to its previous uses relating to mining, colliery tipping and refuse/slag heap. The applicant has submitted a combined Phase I and Phase II Ground Investigation Report in respect of the development.

- 10.50 Whilst KC Environmental Health generally agree with the Phase I element of the submitted report, they consider the Phase II element to be insufficient and as such, conditions are recommended with respect to further site investigations and remediation. This would ensure that the development accords with Policy LP 53 of the KLP and Chapter 15 of the NPPF.

### Air Quality

- 10.51 Guidance set out within the NPPF and the West Yorkshire Low Emissions Strategy (WYLES) seeks to encourage the use of sustainable forms of transport including ultra-low emission vehicles, the use of such vehicles in turn help to improve air quality. Provision is included within the site layout for the provision of electric vehicle charging points, and it would be reasonable to impose a condition, should permission be granted, requiring the retention of these, in accordance with the aims of the West Yorkshire Low Emission Strategy.

### Crime Prevention Issues

- 10.52 The West Yorkshire Police Liaison Architectural officer raises no objections to the proposed scheme. They make a number of recommendations regarding external lighting and surveillance which will be made available to the applicant. The proposal is considered to comply with the aims of chapter 8 of the NPPF in that crime and disorder, and the fear of crime, would not undermine the quality of life or community cohesion (paragraph 91 of the NPPF).

### Ecology

- 10.53 The site is located within the Kirklees Wildlife Habitat Network (KWHN) and therefore provides ecological connectivity to the wider landscape. Although development within the KWHN is not precluded, development is required to "*safeguard and enhance the function and connectivity*" and "*establish additional ecological links to the Kirklees Wildlife Habitat Network where opportunities exist*" in accordance with Local Plan Policy LP30.

10.54 A Biodiversity Enhancement Plan has been submitted with the application, produced in conjunction with the Landscape Maintenance and Management Plan and Landscape Plan. The applicant was asked to provide additional information to mitigate and enhance the KWHN and achieve a net gain in biodiversity. Some information has been recently received and the Council's Ecology officer has been re-consulted, with their final comments awaited.

### Trees

10.55 There are no objections in principle to the development. Whilst the trees shown to be retained are not formally protected, Officers consider that they do contribute to the visual amenity of the area. On this basis, Officers consider that the imposition of a condition is necessary, should permission be granted, requiring a scheme of replacement planting, in the event of those trees being removed, in accordance with Policy LP 33 of the KLP.

## **11.0 CONCLUSION**

11.1 In summary, on the basis of the evidence provided it is considered that the sequential test for the location of retail businesses has been met and there are no objections in principle to the proposed siting of a restaurant with drive thru lane in this location. The proposal will provide an anticipated 65 jobs and will support economic growth in accordance with Chapter 6 of the NPPF. There would be no detrimental impact on highway safety, visual amenity or residential amenity, subject to the imposition of conditions.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Time scale for implementation (three years)
2. Development to be carried out in accordance with approved plans
3. Samples of facing and roofing materials to be submitted
4. Submission of Phase II Intrusive Site Investigation Report
5. Submission of Remediation Strategy
6. Implementation of Remediation Strategy
7. Submission of Validation Report
8. Control of noise from fixed plant and equipment
9. Control Hours of opening for customers (05:00 until midnight)
10. Control Hours of use for deliveries (09:00 until 20:00 Mondays to Saturdays)
11. External Artificial Lighting Scheme to be submitted
12. Development to be carried out in accordance with submitted Noise Assessment
13. Development to be carried out in accordance with submitted Odour Assessment
14. Installation of Electric Vehicle Charging Points
15. Development to be carried out in accordance with submitted Drainage Statement
16. Car Park to be laid out, surfaced and drained

17. Implementation of the Construction Management Plan
- 18 Development to be carried out in accordance with submitted Landscape Maintenance and Management Plan/Landscape Plan
19. Development to be carried out in accordance with Biodiversity Enhancement Plan
20. Scheme of replacement planting to be submitted
21. Erection of acoustic fence along eastern boundary in accordance with submitted details

**Background Papers:**

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f90450>

Certificate of Ownership – Certificate B signed: 10 February 2020

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## Report of the Head of Planning and Development

### STRATEGIC PLANNING COMMITTEE

Date: 27-Jan-2021

**Subject: Planning Application 2020/92384 Erection of extension and alterations to Unit 4 for food and non-food retail with associated external works to reconfigure car park and servicing arrangements Unit 4, The Rishworth Centre, Railway Street, Dewsbury, WF12 8EQ**

#### APPLICANT

NewRiver Retail Portfolio  
No.8 Ltd

#### DATE VALID

24-Jul-2020

#### TARGET DATE

23-Oct-2020

#### EXTENSION EXPIRY DATE

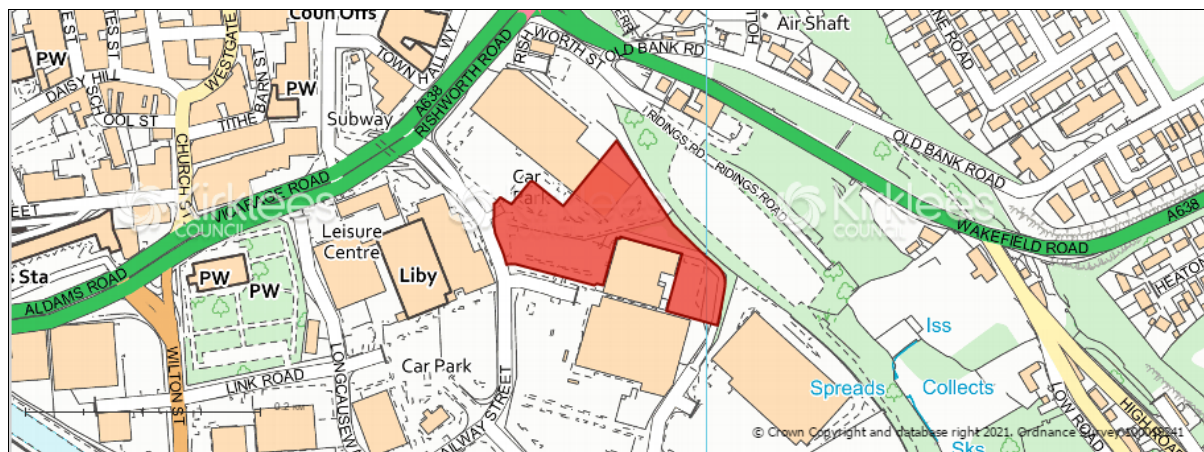
31-Jan-2021

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

#### LOCATION PLAN



Map not to scale – for identification purposes only

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**Electoral wards affected: Dewsbury East**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report.

**1.0 INTRODUCTION:**

1.1 The application is reported to the Strategic Planning Committee in line with the Council's scheme of delegation as the size of the site is over 0.5ha.

**2.0 SITE AND SURROUNDINGS:**

2.1 Unit 4, The Rishworth Centre, is positioned to the south-eastern end of the retail terrace and is currently occupied by Next. To the front and side of this unit are areas used for parking and immediately to the rear lies the service area with a steep embankment beyond this. The wider site comprises two retail terraces; The Rishworth Centre and the Railway Street Retail Park, which is positioned to the south east, with its front elevation orientated towards the car parking areas. The Rishworth Centre is currently accessed from Railway Street with a single point of entrance/egress that solely serves that retail park and its servicing area. The Railway Street Retail Park contains its entrance from Railway Street, however, the egress route is via an access road that wraps around the side and rear of the site, converging with that access to its service yard, and leading to the Goods Lane/Railway Street roundabout. The wider area contains a mixture of commercial development, with some residential uses further to the north at a higher level. There is a travellers' site to the east beyond the embankment.

**3.0 PROPOSAL:**

3.1 Full planning permission is sought to erect an extension to Unit 4, The Rishworth Centre. This extension would have a gross internal area of 665sqm and would accommodate an additional 442sqm (net) of floorspace within the unit, when considering the removal of the mezzanine and area of demolition. Unit 4 in its entirety, as extended, would then operate as an A1 unit selling both food and non-food goods, with permission also being sought to lift the current restrictions on the unit which prohibit the sale of food goods. The planning statement states that the works are to enable occupation by Aldi for their first store in Dewsbury. Alterations are sought to both the front and rear elevations to meet the requirements of the applicant and alterations to the servicing arrangements to the rear.

- 3.2 The proposed development also comprises associated works to rationalise the existing access, servicing and parking arrangements, which include the provision of a new access road to the service yard of the Rishworth Centre, connecting with the existing access road serving the adjacent Railway Street Retail Park, together with the reconfiguration of the existing parking arrangements for the retail parks. This includes merging the two car park areas which currently have no access between them and creating pedestrian routes through to Railway Street.
- 3.3 Following negotiation with the developer, the scheme also now proposes the provision of a signalised pedestrian crossing on Railway Street.

#### **4.0 RELEVANT PLANNING HISTORY**

4.1 The relevant planning history is listed below:

- 86/04462 – outline application for class i development with associated car parking – approved
- 2000/93509 – change of use from car exhaust and tyre depot to a1 retail use – approved specifically relating to this unit
- 2000/93509 – Change of use from car exhaust and tyre depot to A1 retail use – approved
- 2001/93343 – infilling of existing shutter entrance doors to side elevation – approved – specifically relating to this unit
- 2002/92437 – removal of condition 2 relating to sub-division of retail unit on previous permission 2000/62/93509 for change of use from car exhaust and tyre depot to a1 retail use – approved – specifically relating to this unit
- 2005/93187 – installation of new shop front and erection of air conditioning compound – approved – specifically relating to this unit
- 2014/91474 – retention of automatic number plate recognition cameras – approved
- 2007/95311 – erection of new retail unit, re-configuration of car park layout, amended servicing arrangements and widening of railway street access – refused – reasons cited as being (1) the impact on highway safety; (2) impact on visual amenity from loss of trees in prominent positions

Pre-application planning advice was also sought from the Council prior to the submission of this application.

#### **5.0 HISTORY OF NEGOTIATIONS**

- 5.1 Discussions/negotiations have been held with the agent on the following matters:
- Highway safety and pedestrian connectivity to Dewsbury Town Centre
  - Retail policy
  - Ecology Matters

- Trees Matters
- Contaminated/unstable land
- Air quality
- Noise
- Charging Points

5.2 Following negotiation, the scheme now also proposes the provision of a signalised crossing. This has been shown on plans and a Road Safety Audit submitted with respect to this.

## 6.0 PLANNING POLICY:

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27<sup>th</sup> February 2019). The site is unallocated on the Kirklees Local Plan.

### Kirklees Local Plan (2019):

6.2 The following Local Plan Policies are relevant:

- LP 1 Presumption in favour of sustainable development
- LP 2 Place shaping
- LP 13 Town centre uses
- LP 18 Dewsbury Town Centre
- LP 21 Highway safety and access
- LP 22 Parking
- LP 24 Design
- LP 27 Flood risk
- LP 28 Drainage
- LP 30 Biodiversity and geodiversity
- LP 31 Strategic Green Infrastructure Network
- LP 33 Trees
- LP 51 Protection and improvement of local air quality
- LP 52 Protection and improvement of environmental quality
- LP 53 Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

6.3 Kirklees Highways Design Guide

### National Planning Guidance:

6.4 The following chapters of the National Planning Policy Framework are set out below:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 6 – Building a strong, competitive economy
- Chapter 7 – Ensuring the vitality of town centres
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land

- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environmental

## **7.0 PUBLIC/LOCAL RESPONSE:**

7.1 The application has been publicised by site notice, neighbour notification letter and press notice. No representations have been received.

7.2 Given the proximity to the Travellers' site to the rear, the Yorkshire Showmen's Guild has also been notified as well as the Corporate Landlord section of the Council who own that land. No response was received from the Yorkshire Showmen's Guild and the Corporate Landlord replied stating that they have no comments to make on the scheme.

7.2 Ward Members were notified of the planning application. Councillor Lukic responded to this notification with the following points:

- Additional retail information should be provided;
- Within the planning statement it refers to encouraging linked trips from the car park to the town centre, but currently there are signs within the car park stating that you can only park there whilst shopping in the retail park.
- Given the above points, Councillor Lukic objects to the application until these matters are addressed as he feels that it is not compliant with Policies LP13 or LP18 of the KLP.

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

- KC Highways DM: no objection on the basis of the amended plans showing the provision of a signalised crossing, subject to conditions
- KC LLFA: No objection subject to condition
- The Coal Authority: no objection subject to condition

### **8.2 Non-statutory:**

- KC Environmental Health: no objection subject to conditions
- KC Ecology: no objection subject to conditions
- KC Trees: no objection subject to condition
- KC Crime Prevention: comments provided and no objection subject to condition
- KC Planning Policy: relating to retail policy – no objection following the submission of further information
- The Environment Agency: no comments provided

## **9.0 MAIN ISSUES**

- Principle of development
- Highway issues
- Residential amenity
- Urban design issues
- Ecology Matters

- Trees Matters
- Drainage Matters
- Contaminated/Unstable Land
- Crime Prevention
- Climate Change
- Air Quality
- Representations

## 10.0 APPRAISAL

### Principle of development

- 10.1 The application site forms part of the Rishworth Centre Retail Park, which occupies a position just outside the town centre boundary of Dewsbury. The site is currently occupied by Next and, as set out within the Planning Statement, has a lawful non-food retail use – this is from Permission 2000/93509 which has a condition on it to limit the range of goods sold. The agent sets out that Next is due to vacate this unit.
- 10.2 The proposed development would create a 1,792sqm (gross internal) food store, with a 442sqm net uplift on the existing gross internal area. The proposal would result in a 1,315 sqm net sales area, of which 1,052 sqm would be for food and 263 sqm would be for non-food. Given the location of the site outside of Dewsbury's town centre boundary, a Sequential Test and Retail Impact Assessment are required in accordance with Policy LP13 of the Kirklees Local Plan. As the proposal is located within 800 metres of the town centre boundary, the threshold for the impact assessment is 300 sq m.
- 10.3 With respect to the sequential test, this has been reviewed by KC Planning Policy. The applicant, in paragraph 5.24, concludes that there are no sites within Dewsbury Town Centre which could accommodate the proposed store; and that the proposal has no scope for disaggregation. The Primary Catchment Area (PCA) for the proposal is set out in Appendix 4 of the applicant's statement; this is a five-minute drive-time – as agreed between the Council and the applicant at pre-application stage. Dewsbury is the only town centre identified in Policy LP13 within this PCA. KC Planning Policy conclude that the applicant has passed the sequential test.
- 10.4 With respect to the retail impact assessment, further information was sought by KC Planning Policy in order to give confidence that the proposal will not have a significant adverse impact on town centre vitality and viability. This information has been provided and it has concluded that there will be no significant harm to town centre vitality and viability as a result of this proposal and the cumulative impact of other planning permissions and applications beyond the PCA. As such, the proposed development can be considered to comply with the aims of Policy LP13 of the KLP as well as the aims of the NPPF.
- 10.5 Policy LP18 of the KLP, concerned with Dewsbury Town Centre, notes that "Proposals on the edge of Dewsbury Town Centre which pass the sequential test shall in all instances include enhanced connections to the town centre." Paragraph 9.49 of the Kirklees Local Plan notes "The Rishworth Retail Park to the south of the town centre accommodates a number of retailers, and provides a good connection to the primary shopping area. However, the

amount of linked trips to the main centre is not as high as could be achieved and improvements to linking the retail park to the town centre by different initiatives will be supported.”

- 10.6 Initially, the applicant’s Transport Assessment sets out proposals for the Railway Street crossing in paragraphs 3.6.1 to 3.6.5, with a drawing provided in Appendix 4. This initially proposed a widened island, with dropped kerbs and tactile paving but not a signalised crossing as previously highlighted in pre-application discussions. Following discussion with KC Highways DM and Highway safety teams, this was not considered to be an effective solution to deal with the anticipated pedestrian movements associated with the proposed development. Following a meeting with the developer and negotiation, a signalised crossing is now proposed to be provided on Railway Street as a part of this scheme (the details of this are discussed within the Highways Section of the report. With the inclusion of the signalised crossing in this position, it is considered that the proposed development would comply with the aims of Policy LP18 of the Kirklees Local Plan. This is considered to be an appropriate solution for enhancing town centre linkages, as well as addressing the concerns raised by the Council’s Highway Safety team with respect to increased pedestrian movements. The provision of a signalised crossing in this position is considered to represent a benefit of the scheme which aligns with the aims of the Strategic Development Framework created by the Dewsbury Town Centre Regeneration Team.
- 10.7 In summary, the proposed development is considered to comply with the aims of Policy LP13 of the KLP, as it has passed the sequential test and the retail impact assessment to the satisfaction of KC Planning Policy Officers. As such, the development is considered acceptable in principle. In terms of Policy LP18 of the KLP, with the provision of the signalised crossing as set out above, the proposed development is considered to provide an enhancement to town centre connectivity and complies with the aims of this policy.

#### Highway Safety

- 10.8 The proposals show the existing access into the site to remain as currently shown, with a reconfiguration internally to join up access with the adjacent commercial developments car park. The existing exit onto Goods Lane to the rear of the adjacent building will then removed to facilitate service arrangements to the store. KC Highways DM have reviewed this application. They note that a Transport Assessment scoping brief was issued (dated 14 Feb 2020) and, further to discussions, information was requested in the form of surveys during the typical peak periods for food retail outlets. Due to the current circumstances in terms of traffic flows, it is acknowledged that the typical data provided would not be considered representative. As such the KC Highways Officers have agreed that the traffic data on Railway Street would not be requested on this occasion. A Transport assessment has been prepared and submitted as part of the application by Connect Consultants dated July 2020. The anticipated peak trip generation is set out below:

Friday Peak 15:00 -16:00

67 arrivals and 69 departures - 136 two way trips

Saturday Peak 12:00 - 13:00

109 arrivals and 125 departures - 234 two way trips

- 10.9 Within the Strategic Development Framework for Dewsbury, it is identified that enhanced linkages are required between the Rishworth Centre and Dewsbury Town Centre. This is echoed within Policy LP18 of the Kirklees Local Plan as set out in the above section of the report. Furthermore, KC Highways DM state that given this application is anticipated to generate an increase in visitors to the Rishworth Retail Park, improvements to pedestrian crossing facilities to and from the Town Centre are required due to the current road layout. This was suggested at the pre-application stage of the application and to be in the form of a signalised crossing in the vicinity of the existing traffic Island on Railway Street which is in the desire line for pedestrians wanting to cross the road to the existing underpass connecting to Dewsbury Town centre.
- 10.10 KC Highways commented that improvements to pedestrian links have been provided internally within the site which include a reconfiguration of the car park to facilities these and these works are considered acceptable. However, the original proposal did not include the provision of a signalised crossing, only a proposed enlargement of the existing traffic Island on Railway Street and this was not considered as a sufficient highways solution.
- 10.11 Further discussions took place with the Council's Highway Safety and UTC sections. It was concluded that there were highway safety concerns with regard to pedestrians having to cross two lanes of traffic on the outbound side of Railway Street towards the ring road. This has been investigated historically and modelled by the Council's UTC section who have confirmed that traffic queues past the existing traffic island throughout the day and in particular at peak periods and weekends. This had the potential to present a highway safety issue due to the increase in pedestrian demand associated with the development.
- 10.12 These concerns were communicated to the agent and following negotiation and a meeting, the developer has agreed to provide the signalised crossing as requested. The proposed arrangement has been shown on plan and is accompanied by a Stage 1 Road Safety Audit. This additional information has been reviewed by KC Highways DM who conclude that the provision of this crossing addresses the highway safety issues identified above. In addition to this, given that KC Highways DM conclude this to be an effective solution to enhance town centre connectivity, the scheme is considered to comply with the aims of Policy LP18 as set out within the above section of the report. The provision of this crossing will be secured by condition.
- 10.13 A Framework Travel Plan has been submitted during the course of the application and has been found acceptable by KC Highways DM. A condition is recommended requiring the submission of a detailed Travel Plan for review by the Council's Travel Plan Coordinator. The Framework Travel Plan sets out that it will be monitored in-house and as such, a Section 106 agreement covering monitoring fees for the Council will not be required in this instance.
- 10.14 In summary, based on the submitted information, the proposed development is considered to be acceptable in terms of highways safety and complies with the aims of Policies LP18, LP21 and LP22 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

## Residential Amenity

- 10.15 In terms of the proposed built form, given the location of the site and the separation distances and land level changes, the proposed development is not considered to result in significant harm to residential amenity in terms of overbearing or overshadowing.
- 10.16 In terms of noise impact, the application has been reviewed by KC Environmental Health. They comment that the closest noise sensitive receptors to the proposed development are the caravans to the east of the site (Travellers' site) and the dwellinghouses further up the bank on Ridings Road.
- 10.17 The applicant has submitted a Noise Impact Assessment dated 14 July 2020 authored by JPM Acoustics Ref 0532020. A baseline noise survey was undertaken between 19:00 on Monday 8th June 2020 and 08:00 on Tuesday 9th June 2020. As it was evening through to the morning, Unit 4 was not operational at the time. The noise climate was noted to be dominated by road traffic on the local road network.
- 10.18 A BS 4142 assessment has been undertaken to assess the likely impact of deliveries at the nearest receptors. The assessment assumes 1 delivery per 1-hour assessment period during the daytime, and 1 delivery per 15-minute assessment period during the night-time and are based on measured noise levels at similar sites, not specifically this one. The results of the predicted assessment indicate a low impact during the daytime and night-time with daytime delivery noise rating level at 11dB below background and night-time deliveries at 2dB below background.
- 10.19 A BS 4142 assessment has also been undertaken to assess the likely impact of noise from fixed plant items at the nearest receptors. The results of the assessment indicate a low impact during the daytime and night-time periods. The rating level of noise from night-time mechanical plant is predicted to be 8dB below background. If noise from the deliveries and mechanical plant at the development are in line with the predicted levels they are unlikely to cause a problem. A condition is necessary to ensure that noise from the site is in accordance with the predicted noise levels. Noise during the construction period would also have the potential to cause a loss of amenity to nearby residents, therefore a condition regarding this is also necessary.
- 10.20 No information has been provided regarding any changes that will be made to the external lighting at the site, or whether the existing lighting will be retained with no additions or alterations. If there are to be any changes to the external lighting these need to be appropriate for the intended future use and designed so that they do not cause any significant loss of amenity to the occupiers of neighbouring premises. A condition is therefore necessary regarding any changes to the external lighting.
- 10.21 Subject to the above mentioned conditions, the proposed development is considered to have an acceptable impact on residential amenity, complying with the aims of Policies LP24 and LP52 of the Kirklees Local Plan as well as the aims of the National Planning Policy Framework.

## Design Issues

- 10.22 The proposed development comprises a side extension to Unit 4, which would extend the width of the retail terrace, bringing it in close proximity of the adjacent retail terrace. The extension is designed to sit flush with the existing front elevation of the building. It would have a hipped roof form to mimic that of the existing building and a small set down from the ridge. Alterations are also sought to the existing elevations. The upper section of the front elevation would be faced in metallic silver cladding with a combination of glazing, grey cladding and brick for the lower section of the elevation. A high level strip of glazing would run along the middle of the front elevation, wrapping around the side elevation. The combination of materials assists in breaking up façade, providing visual interest. The canopy also assists with this. Whilst the proximity to the adjacent retail terrace is noted, it is also proposed that an area of soft landscaping would be provided in front of this area which assists in softening the built form. Details of the soft landscaping scheme together with the replacement trees planting proposed will also be sought by condition.
- 10.23 Whilst the existing building is constructed with a grey-coloured brick, it is noted that a red-coloured brick is indicated on the proposed plan. Whilst it is noted that the neighbouring retail terrace is constructed from red brick, it is considered preferable that the extension/alterations to this unit are faced in a grey-coloured brick to match that of the existing unit. A condition is recommended requiring the submission of facing and roofing materials, as such, this element can be addressed at the conditions stage of the application. This is to ensure that the proposed development satisfactorily assimilates into the site.
- 10.24 In summary, the proposed development is considered acceptable in terms of design and visual amenity, subject to the conditions set out above. It is considered to comply with the aims of Policy LP24 of the KLP and the aims of Chapter 12 of the National Planning Policy Framework.

## Ecology Issues

- 10.25 A Preliminary Ecological Appraisal (PEA) has been submitted with the application. In this case no further surveys are recommended, and the report provides sufficient information in order to assess the impacts of the development against national and local policy. The PEA concludes that, with the inclusion of mitigative measures outlined in section 5, no significant ecological impacts are expected. The proposals therefore satisfy the requirements of Policy LP30(i) of the KLP. Conditions will be required to secure the ecological measures.
- 10.26 At the request of the Council's Ecologist, information in relation to Biodiversity Net Gain was supplied during the course of the application in line with Policy LP30 (ii). Initially, the submitted information was not considered acceptable. Amended information has now been submitted which has been reviewed by the Council's Ecologist. The revised calculations give a predicted net gain of 3.68% post development. KC Ecology comment that the proposed uplift is deemed to be adequate, subject to details of the creation, management and maintenance of the new and retained habitats being secured via a Biodiversity Enhancement and Management Plan. A condition is recommended requiring the submission of this.

- 10.27 Subject to the above mentioned conditions, the proposed development is considered acceptable in relation to Policy LP30 of the KLP and Chapter 15 of the National Planning Policy Framework.

#### Trees Issues

- 10.28 A number of trees within the site are proposed to be removed as a result of this application. As such, the application is supported with a Tree Report. This has been reviewed by KC Trees Officers who comment that further detail was required to understand the extent of works to be undertaken within G22 (a group of trees to the rear of the site). This information has now been provided; approximately 12 smaller young slender trees growing along the edge of this group, with tree pruning to reduce others back by 1m. Individually, the trees are of poor quality and overall, the proposed tree works are considered acceptable to KC Trees.
- 10.29 Sufficient details of proposed tree protection measures, type, and location of tree protective fencing has been provided. As such, KC Trees Officers raise no objection on trees grounds subject to a condition requiring the development to be carried out in accordance with the recommendations of the Arboricultural Impact Assessment.
- 10.30 Subject to the inclusion of the condition, the proposed development is considered to comply with the aims of Policy LP33 of the KLP and the aims of Chapter 15 of the NPPF.

#### Flood Risk and Drainage issues

- 10.31 The vast majority of the site falls within Flood Zone 1 on the Environment Agency's flood maps, with a small section of the existing access being within Flood Zone 2. The application is supported by a Flood Risk and Drainage Strategy. This has been reviewed by KC Lead Local Flood Authority. The Environment Agency was consulted but no comments received.
- 10.32 KC LLFA confirms that the proposal is to use a soakaway, or if not viable, a connection to local surface water network, whilst reducing peak flows by 30%. These details are considered acceptable to the LLFA, who support the principle of this development in relation to flood risk and drainage strategy. It is recommended that a condition is imposed requiring that the development is carried out in complete accordance with the details contained within the Flood Risk and Surface Water Statement.
- 10.33 Subject to this condition, the application is considered to accord with the aims of Policies LP27 and LP28 of the KLP and the aims of Chapter 14 of the NPPF.

#### Contaminated/Unstable Land Issues

- 10.34 The application site is identified as potentially contaminated land and a Phase 1 report has been submitted and reviewed by KC Environmental Health. KC Environmental Health are satisfied with this report. The comment that any future Phase II intrusive investigation at the site should be conducted following the relevant guidance such as BS 10175:2011+A2:2017 - Investigation of potentially contaminated sites. Code of practice guidance. In

particular, the frequency and period of ground gas monitoring should follow CIRIA 665 – Assessing risks posed by hazardous ground gases to buildings guidance to ensure the collection of appropriate and robust ground gas data. Contaminated Land conditions are considered necessary.

- 10.35 The application is located within a High Risk area from coal mining activities. As such, a CMRA has been submitted and reviewed by the coal authority. They raise no objections subject to conditions relating to Phase II intrusive investigations being conditioned.
- 10.36 Subject to the above conditions, the proposed development is considered acceptable in terms of contaminated and unstable land and the development complies with the aims of Policies LP53 of the KLP and the aims of Chapter 15 of the NPPF.

#### Crime Prevention

- 10.37 The application has been reviewed by the Police Architectural Liaison Officer, in conjunction with an Anti-Terrorism Officer. Comments have been provided offering advice to the applicant. Following discussion with the PALO, a condition is requested, should the application be approved, for details of security measures to be submitted and approved in writing. This is in accordance with the aims of Policy LP24 of the KLP.

#### Climate Change

- 10.38 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.39 Within the KC Environmental Health response, it is noted that the development will introduce an increase in the retail area but that the overall amount of parking will be reduced. In an application of this nature it is still expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. The Proposed Site Plan by RGP Architects dated July 20 (Dwg No 10574 PL06 Rev A) shows the location of "EV Parkings" at just two parking spaces. The information submitted however provides no detailed information regarding the specification of these charging points. A condition requiring charging points is therefore necessary. This is in accordance with the aims of Policy LP 24 and LP51 of the KLP.

## Air Quality

- 10.40 An Air Quality Assessment has been submitted by Redmore Environmental Ref: 3768r2 Dated; 20th July 2020 in support of the application. KC Environmental Health state that this assessment has been reviewed in accordance with the West Yorkshire Low Emissions Strategy – Technical Planning Guidance (WYLES).
- 10.41 KC Environmental Health initially commented that report it does not provide us with the evidence to be confident that the proposed development be acceptable in terms of Air Quality, including concern about the Rishworth Centre being adjacent the Dewsbury Ring Road/Wakefield Road which is an Air Quality Management Area.
- 10.42 In response to these concerns, additional supporting information has been submitted and reviewed by KC Environmental Health (received from Redmore Environmental Dated 5th November 2020 Ref: 3768c4 2020). They comment that they have re-visited the trip generation data provided by Connect Consultants the Transport Consultants for the project; their report predicts that most vehicle movements will be linked trips. Considering this KC Environmental Health have reconsidered the Air Quality Assessment and agree with its conclusions that the development is predicted not to significantly impact local air quality due to the low number of vehicle movements associated with the scheme. As such, the application is now considered to comply with the aims of Policy LP51 of the KLP in terms of Air Quality.

## Representations

- 10.43 No representations have been received from members of the public. Ward Members were notified of the planning application. Councillor Lukic responded to this notification with the following points:
- Additional retail information should be provided;
  - Within the planning statement it refers to encouraging linked trips from the car park to the town centre, but currently there are signs within the car park stating that you can only park there whilst shopping in the retail park.
  - Given the above points, Councillor Lukic objects to the application until these matters are addressed as he feels that it is not compliant with Policies LP13 or LP18 of the KLP.
- 10.44 In response to these comments:
- As set out within the report, a sequential test and retail impact assessment has been submitted in support of this application. This has been reviewed by KC Planning Policy Officers, who, after seeking additional clarification from the agent, conclude that there would be no significant harm to town centre vitality and viability as a result of this proposal.
  - In terms of existing restrictions within the car parking area, clarification has been sought from the agent on the matter. Their response is set out below:

*The car park signage currently shows a 2 hour waiting restriction. The restriction was principally introduced to prevent commuter parking, which had been increasing and proving problematic, following discussions with the tenants at that time. In reality, customers are unlikely to be penalised for going over the 2 hours if they are shopping at the Rishworth Centre and the town centre. Ultimately, the restrictions are not designed to limit linked trips. Rather NewRiver wish to encourage linked trips.*

*NewRiver could, however, review the car park restrictions in due course with the various tenants, but this would be outside of the planning process.*

- In addition to this, as set out in the main section of the report, the scheme now proposes the provision of a signalised crossing. This is considered a benefit of the scheme that will enhance linkages between the town centre and the retail park.
- As such, Officers are satisfied that the proposed development would comply with the aims of Policies LP13 and LP18 of the KLP.

## **11.0 CONCLUSION**

- 11.1 Full planning permission is sought to erect an extension to Unit 4, The Rishworth Centre. Unit 4 in its entirety, as extended, would then operate as an A1 unit selling both food and non-food goods, with permission also being sought to lift the current restrictions on the unit which prohibit the sale of food goods. The planning statement states that the works are to enable occupation by Aldi for their first store in Dewsbury. Alterations are sought to both the front and rear elevations, alterations to the servicing arrangements to the rear and a reconfiguration of the parking arrangements. Following negotiations, a signalised pedestrian crossing on Railway Street is also proposed under this scheme.
- 11.2 A detailed and comprehensive assessment has been undertaken and concludes that the impact on town centre viability is acceptable. Following the submission of details regarding the signalised crossing, the proposed development has addressed concerns of KC Highways as well as fulfilling the aims of Policy LP18 of the KLP which seeks to achieve enhanced connectivity between the town centre and the Rishworth Centre.
- 11.3 In summary, the proposed development is considered to be acceptable, subject to the conditions set out below. It is therefore recommended for approval.

**12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

1. Commence within 3 years
2. Undertaken in accordance with the plans/specifications
3. Details/samples of materials to be provided
4. Landscaping scheme/Biodiversity Enhancement and Management Plan to be submitted (visual amenity and ecology)
5. Provision of the pedestrian crossing
6. Submission of a Travel Plan
7. Marking out of the car park/servicing prior to first opening
8. Construction Access schedule to be submitted and approved in writing
9. Noise levels condition
10. Lighting scheme to be submitted
11. Trees – work to be completed in accordance with submitted details
12. Drainage – development to be undertaken in accordance with the submitted drainage strategy
13. Contaminated/unstable land – suite of conditions relating to the submission for ground investigation reports/remediation/validation as necessary
14. Scheme of security measures in the interest of crime prevention
15. Scheme detailing vehicle charging points to be provided
16. Works carried out in accordance with the recommendations of the ecology report

**Background Papers:**

Application and history files:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planningapplications/detail.aspx?id=2020/92384>

Certificate of Ownership – Certificate A signed.

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**Name of meeting: STRATEGIC PLANNING COMMITTEE**

**Date: 27<sup>th</sup> January 2021**

**Title of report: Supplementary Mirfield 25, Leeds Road, Mirfield – Planning Compliance & Conditions Monitoring**

**The purpose of the report is to provide a supplementary update to Members of the Strategic Planning Committee, following comments made on the main report presented on the 16<sup>th</sup> December 2020**

**Electoral wards affected: Mirfield**

**Ward councillors consulted: No**

**Public or private: Public**

**Has GDPR been considered? Yes. There no GDPR implications.**

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## **1. Introduction**

This report is a supplement to the original report presented at the Strategic Committee on the 16<sup>th</sup> December 2020. A number of comments were made by members and the committee asked for a further report to be brought covering specific comments made. It was agreed at the committee the scope of this supplementary report would cover the following:

- A response to the issue concerning “mud on the road”
- Of the 14 “mud on the road” complaints when were they received and what actions were taken

## **2. Mud on the road**

2.1 For absolute clarification to the members of the committee “mud on the road” is not a breach of planning control, rather it is a separate offence under the Highways Act 1980 and is enforced by the Highways department and not the planning compliance team. It should be noted that the original report clarified that it was a report on planning compliance and did not cover matters dealt with under non-planning related legislation i.e. Highways Act 1980.

2.2 The purpose of planning compliance is to ensure that any planning conditions are being complied with and having regard to the relevant government guidance on enforcement specified in the original report. The presence of mud on the road does not mean that conditions are not being complied with. The relevant conditions imposed on the planning permission require the residential site to provide a road sweeper 2-3 times per day and the “provision” of a wheel (jet) wash. For phase 1 of the commercial site, to provide road sweepers.

- 2.3 As per the conclusions in the original report, these relevant planning conditions for both the residential and commercial site are being complied with, with the former being secured by taking formal enforcement action with the serving of a Breach of Condition Notice.
- 2.4 It was brought to the attention of members at the committee meeting that on that morning there was no wheel wash facility present on the residential site. The developer contacted the Council that day to inform that the wheel (jet) wash contains a reservoir stored with water for use, once this is spent it needs refilling and this is done away from the site entrance. This explains why the wheel (jet) wash was not at the entrance at the time. The planning compliance team were invited by the developer to visit the site anytime to see the wheel (jet) wash. An unannounced visit was carried out at 9am the following morning and the wheel (jet) wash was present and in use at the time washing the wheels of a road sweeper.
- 2.5 Further unannounced site visits have also been carried out by the Planning Compliance Team and the wheel (jet) wash was present on all of these visits. Therefore, as per the conclusions in the original report, there is no breach of planning control in relation to these complaints.
- 2.6 If following compliance with the relevant conditions still leads to mud on the road, this matter can be enforced by the Highways Department. The Planning Compliance team are working closely with colleagues in the Highways Department to ensure a resolution to this issue. As the relevant planning conditions are being complied with the matter is now being led by the Highways Departments Reactive Maintenance Team (HRMT).
- 2.7 The HRMT visited the site on the 22<sup>nd</sup> December 2020, to evaluate the condition of the road and to determine whether any offences under the Highways Act 1980 were evident. They found no issues with the condition of the A62 (Leeds Road).
- 2.8 HRMT have also set up a robust monitoring scheme for the site, carrying out daily site visits commencing 13<sup>th</sup> January 2021.
- 2.9 In addition, the Planning Department intend to review the wording of conditions used on similar developments in the future, to tighten restrictions on development sites in relation to potential deposits of mud on the highway in order to strengthen the planning compliance position.

### **3.0 Actions taken on the 14 breach of condition/mud on the road complaints**

- 3.1 Of the 14 complaints received alleging mud on the road/breach of condition, they were followed up with either site visits (often finding no mud on the road), contact made with the developer(s) and referrals to relevant departments (Highways) where necessary or a combination of those actions. The dates these complaints were received are below:

- 21/05/2019
- 23/06/2019
- 24/06/2019
- 25/06/2019
- 13/08/2019
- 22/08/2019
- 15/10/2019
- 28/01/2020
- 29/01/2020
- 15/08/2020
- 02/10/2020
- 04/10/2020
- 08/10/2020
- 25/11/2020

#### **4. Implications for the Council**

There will be no impact on the six main priority areas listed below

- Working with People
- Working with Partners
- Place Based Working
- Climate Change and Air Quality
- Improving outcomes for children
- Other (eg Legal/Financial or Human Resources)

#### **5. Consultees and their opinions**

Not applicable, the report is for information only

#### **6. Next steps**

Continue site monitoring of conditions/compliance

#### **7. Officer recommendations and reasons**

To note

#### **8. Cabinet portfolio holder recommendation**

Not applicable

#### **9. Contact officer**

Mathias Franklin – Head of Planning and Development (01484 221000)  
[mathias.franklin@kirklees.gov.uk](mailto:mathias.franklin@kirklees.gov.uk)

#### **10. Background Papers and History of Decisions**

See original report presented on the 16<sup>th</sup> December 2020 at the Strategic Planning Committee

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